

Sutton Nicholls Delin: et Sculp:

*Charity Still a Christian Virtue*

OR, AN  
Impartial Account  
OF THE  
T R Y A L  
AND  
CONVICTION

Of the Reverend

Mr. *HENDLEY*,

For Preaching

*A Charity-Sermon at Chiffelhurst.*

AND OF

Mr. *Campman*, Mr. *Prat*, and Mr. *Harding*,  
for Collecting at the same Time the Alms  
of the Congregation.

At the *ASSIZES* held at *Rocheſter*, on  
*Wednesday, July 15. 1719.*

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Humbly offer'd to the Conſideration of the  
Clergy of the *CHURCH* of *ENGLAND*.

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*Let us oppreſs the poor Righteous Man; let us not ſpare  
the Widow, nor Reverence the Grey Hairs of the Aged.  
Let our Strength be the Law of Juſtice; for that which is fee-  
ble, is found to be nothing worth, Wiſd. Solom. 2. 10, 11.*

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*L O N D O N :*

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# THE PREFACE.



*I* is a general Observation, That Authors to cover their Works from Insults, cast up an Intrinchment by way of Preface. For my part, a few Lines shall serve my turn, because I flatter my self, the Performance will stand its Ground against any Attack its Enemies can make, if there were no Outworks to defend it.

The Enemies to this Tract, are the profess'd Enemies to all Religion, or at least, to that profess'd in the Church of England; if such Men had their full Scope, all the Clergy would be whip'd as Vagrants, and confin'd to hard Labour. They shew their Reverence for sacred Things, by the Respect they pay to the



## The PREFACE.

*Altar, and to the sacred Institution of the Eucharist.*

*I shall beg leave only to inform the Reader, That this small Treatise will serve to be Bound up, as an Appendix, to the Mercurius Rusticus. And I dare venture to say, notwithstanding the many bright Stories concerning those unhappy Times of Rebellion, the Appendix will out-shine the Book.*

*In the mean time, I resign it into his Hands, wishing him good Sense, sober and impartial Thoughts; and thus leaving him to his good Genius, I bid him Farewel.*

P R E F A C E



THE



# THE INTRODUCTION.

Containing the

# OCCASION OF THE TRYAL.



ON Saturday, August 23. 1718.  
upon Leave obtain'd first  
from the Bishop of *Roche-*  
*chester*, and secondly from  
the Reverend Mr. *Wilson*,  
the Rector of *Chiffelhurst*, to  
preach two Sermons for the  
Children belonging to St.  
*Ann's* within *Aldersgate*; the

Schoolmaster of the said Charity Children, with  
two or three more, carried down some of the Chil-  
dren to *Chiffelhurst*, to encourage that Pious Intention.

Immediately they were taken up and carried be-  
fore Sir *Edward Bettison*, *Thomas Farrington*, Esq; Ju-  
stices of the Peace, and Major *Stephens*, High-Sheriff  
of the County; by whom they were ask'd, How they

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dar'd to come Stroling and Begging about the Country, without License or Authority first obtain'd ; to which they replied, That if the Archbishops and Bishops thought it a Good Work to Preach for such Children, they imagin'd it to be a Good Work in them to Collect for them ; to which this Complaisant and Well-bred Reply was made ; That they car'd not for Archbishops or Bishops, and were positively resolv'd the Thing shou'd not be pursu'd ; upon which they were order'd to be Confined.

*August 24.* A Sermon was preach'd by the Reverend Mr. *Hendley* suitable to the Occasion. No Disturbance happen'd during that Time.

The Sermon being ended, Mr. *Wilson* (whose Curate Read Prayers) put on a Surplice, and repair'd to the Altar to Read the Offertory Sentences before the Prayer for the Church Militant ; upon which the War was actually began in the following manner.

The Communion Patens were plac'd on the Table, on which Mr. *Wilson* first made his own Offering, and gave them out to Mr. *Campman* and Mr. *Prat*, two of the Trustees for the Children to Collect the same from Pew to Pew.

The People gave very liberally till they came to Mr. *Farrington's* Pew ; the Plate being held to him, he not only denied his Contribution, but seized the Collector, asserting it to be an illegal Collection ; and, that the Money shou'd not be given, as was pretended, to the poor Children, who were Vagrants in the Eye of the Law, and were sent about Begging for the *Pretender* ; and therefore it behov'd his Majesty's Justices of the Peace vigorously to oppose them.

Mr. *Hendley* called out from the Pulpit, and commanded them to proceed ; they answer'd they cou'd not ; Mr. *Wilson* (from the Altar) likewise commanded them to proceed, to whom they return'd the

the same Answer: Mr. *Wilson* came down, and said he would Collect in Person.

In the mean Time Mr. *Hendley* call'd to the Reader for a Common-Prayer Book, and Read aloud the several Rubricks which authorized those Proceedings, and told the Justices they cou'd not answer disturbing Divine Service, and must expect to have a Complaint thereof made to the Bishop of *Rochester*; Mr. Justice answer'd, he did not care for the Bishop of *Rochester*, nor him neither; that the Government must be supported, and thereupon they were charg'd by Sir *Edward Bettison* and Captain *Farrington* to desist from Collecting at their Peril.

In the mean Time the Rector had very good Success; many crowded up to give before their Time, and others kept back by meer force, threw their Money into the Plate. *Farrington* made a Snatch at the Paten to take the Money to himself; Mr. *Wilson* order'd the Money to be brought to the Altar. Mr. *Wilson* took one Paten, and Mr. *Hendley* the other, and decently plac'd them thereon. *Farrington* press'd to come within the Rails, Mr. *Hendley* held the Door, and told him his Place was not there, that the Money was offer'd up to God, and let him take it at his Peril. Sir *Edward Bettison* comes up, and *Farrington* calls for a \* Constable, who came up to the Rails with a long Staff; upon this they were order'd to disperse under Pain of being guilty of a Riot, being seconded by Sir *Edward Bettison*. Mr. *Wilson* and Mr. *Hendley* told them, that the Service of the Church was not finished, for the Prayer for the Church Militant was not Read, nor the Blessing given, and if there was a

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\* This Constable was elected pro Tempore to serve the present Occasion.



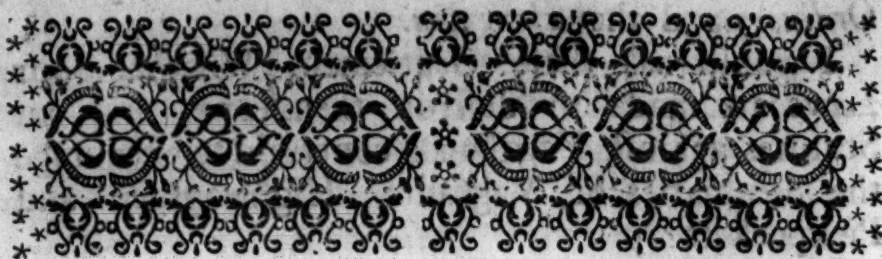
Riot, it was occasion'd by the two Justices, who had hindred the People from paying their usual Devotions, and from contributing their intended Alms. Sir *Edward Bettison* answer'd, that the Service was finished, and challeng'd him to proceed if he dar'd so to do; and that he, and all concern'd in bringing the Children down, should suffer for what was done.

Mr. *Wilson* call'd the Churchwarden to tell the Money with him, and agree in the disposal thereof, according to the Rubrick; the Justice countermanded that Order, whom Mr. Churchwarden rather chose to obey.

Upon this Mr. *Wilson* and Mr. *Hendley* told the Money on the Lord's Table, and committed it that Afternoon into the Custody of the Lord Bishop of *Rochester*.

After this the Rector submitted, and the Congregation dispers'd, without venturing to meet in the Afternoon, for fear of the same, or worse Usage.

Towards the Evening, the Battle being over, and the Victory gain'd, the Rector, Preacher, and the three Persons who brought the Children down, were bound over to the Quarter-Sessions at *Maidstone*, as Rioters and Vagrants; and frequent Threatnings were made, that the Justices of the Peace all over *England* were resolv'd to suppress the *Charity-Schools*.



# REFLECTIONS

U P O N

The MATTERS of FACT  
abovemention'd.

**M**Y Design is to carry the Reader Step by Step thro' every Part of the Relation, that he may have a true Notion of the Illegality of some Proceedings there, and how big they are with the most fatal Consequences, which Time will bring forth.

1. The Trustees for the Children, upon their coming to *Chiffelburst*, were seized as Vagrants.

I believe neither the Heathen nor Christian World ever produc'd an Instance of this Nature, so opposite to Christianity, and to the Political Interest of our Country. It can never enter into any sober Man's Thoughts, that Laws should be made in a Commonwealth against Education, against Charity, and bringing up Children in the Fear of God. Surely Religion will be granted even by Atheists to do at least Service in the World; nor can any Benefit arise to a Government by a numerous Execution at *Tyburn*. In short,  
such



such Notions can have no Advocates, except the Ordinary and the Hangman.

I would ask these Gentlemen, Whether our Laws are made to destroy themselves, and our Statutes against Vagabonds contriv'd to encourage the Seminaries of Vagrants, Highwaymen and Pickpockets?

If we examine *Paul Lorrain's* tragical Tractates, and the Sessions Paper, we shall find, that far the greatest part of the Criminals who die by the Hands of Justice, were never taught to Read, or to Pray.

These Men must be endu'd with an uncommon Share of Modesty, who interpret our Laws in such a manner, as to make them destructive to Society, and moreover Impious.

Let them but consult the Preambles of those Acts, and then make their Report of the true Intent of our Legislators; and then if they can make them consistent with their new Comment, I shall have no more to say.

The Preamble to the Act made 11 *Guliel.* runs thus:

Whereas many Parts of this Kingdom are extremely oppressed by the usual Method of conveying Vagabonds or Beggars from Parish to Parish in a dilatory manner, whereby such Vagabonds or Beggars, in hopes of Relief from every Parish thro' which they are conducted, are encourag'd to spend their Lives in wandring from one part of this Kingdom to another; and to elude divers charitable and well-dispos'd Persons, very frequently forge or counterfeit Passes, Testimonials, or Characters, whereby the charitable Intentions of such Persons are often abus'd; for Remedy whereof be it enacted, &c.

We find here the Scope and Intention of this Act was to prevent the abusing the Charity of well-

well-meaning Persons, in giving Money to such Fellows as make it their Business to wander, during their whole Lives, thro' the Kingdom.

In 2 *Ann. c. 6. §. 16.* the Vagabonds are more particularly defin'd to be Rogues [*sturdy Beggars*] who pilfer and beg thro' all the Kingdom, to the great Disturbance of the Peace and Tranquillity of the Kingdom.

In *Eliz. 39.* an Act for Punishment of Rogues, Vagabonds, and sturdy Beggars, has there the several sorts of Vagrants more particularly defin'd.

1. All Persons calling themselves Scholars, going about Begging. 2. All Sea-faring Men pretending Losses at Sea. 3. All idle Persons using unlawful Games, or to practice Palmistry, Physiognomy, or the like. 4. All Persons that utter themselves to be Proctors, Procurers, or Patent Gatherers for Gaols, Prisons or Hospitals. 5. All Fencers, and Bearwards, and Players. 6. All Juglers, Tinkers, Pedlers, &c. 7. All wandring Persons and common Labourers, who being able in Body, make a Practice of Begging. 8. All Persons deliver'd out of Gaol begging for their Fees. 9. All who pretend to be *Ægyptians*.

The Act takes it for granted, that all under the beforementioned Characters are Rogues, and accordingly files them so thro' the whole Body of this Act, and constantly puts Rogues, Vagabonds, and Vagrants in the same Class; and has appointed proper Punishments for their Terror.

Now, unless an Infant can be deem'd a Rogue, because he is born Poor, or descends from afflicted Parents; this Act can have no more relation to Charity Children, than the Act against Conventicles affects the True and Genuine Sons of the *Church of England*.

An Act was indeed made 12 *Hen. 8. c. 12.* That the Justices of the Peace should give License to  
poor



poor aged and impotent Persons to beg within a certain Precinct.

But this was done upon a Supposition, that the neighbouring Justices were best acquainted with the Condition of those poor Beggars, to distinguish them from Rogues able to Labour.

I can easily grant, that Beggars are the Pest of a Commonwealth, and answer to Scars and Blotches in the Body natural; for if they are capable to serve their Country in any Capacity, their Idleness is an artificial Excision from the Body politick; and such Men are dead to their Country.

Moreover, if they are not able to Work, if Age incapacitates them from Labour, their appearance in the Streets is offensive; not only as it renews the Remembrance of the Miseries of Human Life; but also as it is a Reproach to a Government to suffer poor Members of a Commonwealth, when they are become useless, to lie rotting upon the Ground.

What Relation has all this to Charity-Schools and Charity-Children? Care for the Education of such Objects can in no wise be detrimental to a Kingdom; nay, it is confirm'd by 43 Eliz. c. 4. in the following manner.

Whereas divers Lands, Tenements, Rents, Annuities, Profits, Hereditaments, Goods, Chattels, Money, and Stocks of Money have been heretofore given, limited, appointed and assigned, as well by the Queen's most excellent Majesty, and her most noble Progenitors, as by sundry other well-disposed Persons; some for Relief of aged, impotent and poor People; some for Maintenance of sick and maimed Soldiers and Mariners, Schools of Learning, Free-Schools, and Scholars in the Universities; some for Repair of Bridges, Ports, Havens, Causeways, Churches, Sea-Banks, and Highways; some for Education and Preferment of Orphans, &c.

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Can therefore the Means be Injust, That in the most inoffensive Manner tend to a Good and Pious End, which has the Praise of both God and Man, of the Laws of Christianity, of Nature, and of our Country ?

In the Memory of Man, we have an Instance of publick Charities collected for the Poor after the Fire of *London*, without any Suspicion of Vagrancy, before any Royal Proclamation came forth; and whatever was at any Time given, was secur'd by an Act 22 & 23 Car. 2. c. 16. Were the poor People punish'd as Vagrants? or did the Magistrates interpose to stop the Torrent of Charity, as tho' it was a dangerous Flood, and threatned the Peace of a Kingdom.

In short, if the Methods us'd at *Chiffelhurst* came not within the Intention of any Law ever in Being, they could not be taken up, or bound over to the Sessions for the same.

All the Acts of Parliament extant, that speak concerning this Matter, are to be reduc'd to these following Heads.

1. Acts against Beggars, Vagrants, and Rogues.
2. Provisions that real Objects of Charity, whose Occasions require them to Travel, shall be authorized by Testimonials to beg for Subsistence in their Way.
3. Care taken of the Vicar, and of the Poor, that they shall be provided for after the manner Specified.
4. Foundation of Hospitals, and Houses of Correction encourag'd.
5. Care taken for the Poors more easily recovering their just Dues.
6. Lands settled upon the Poor for their Maintenance.
7. Care taken that Cheats shall have no Subsistence.



As I have here enumerated all the Heads which concern this Argument, I desire my Adversaries to inform me, under what Head they will reduce this new Law Position, *viz.* That whoever Collects Charity of any sort, even for the Relief and Education of the Poor, is guilty of an unlawful Act; and, that the Persons for whom such Collection is made, are Vagrants.

I shall here speak only in Relation to the second Part; and my Question turns, How such Persons can be Vagrants?

As to the first Head. The Laws against Rogues and Vagrants are level'd against only such; and unless Charity-Children are Rogues, they are not included in those Acts.

For we must observe, that a Corporal Punishment attends their Crime of Begging, as being Cheats.

Thus the 39 of *Eliz. c. 4. §. 2.* specifies the various Characters of such Rogues. Nor cou'd the poor Children, who came down to *Chiffelburst*, be ranked with any Class there mention'd, or have any Affinity therewith.

For, 1. As to those who call'd themselves Scholars, and went about Begging. They were suppos'd to be Cheats: They pretended to Conjure, and to deal with the Devil; as my Great Grandmother (who liv'd in those Days) has inform'd our Family.

For, 2. The Sea-faring Men. They are suppos'd to pretend only Losses by Sea; whereas effectual Care was taken for the Relief of real Sufferers, by procuring them Testimonials.

3. Persons who pretended to tell Fortunes, or to play at unlawful Games, were Rogues, for Reasons obvious to any one.

4. Those who utter'd themselves to be Procurers, or Collectors for Gaols and Hospitals, were suppos'd

pos'd to be Cheats, and to have no Authority; not that Collections for those Uses were unlawful, because they have been approv'd, as I have observ'd before, by the Laws of the Land, and by the same confirm'd.

5. Fencers, Bearwards, and Players upon Minstrels, are suppos'd to seduce Labourers from their lawful Employ, and to corrupt Servants, and draw them from their Master's Business.

6. Tinkers, Juglers, and Pedlars were included, because they were found very troublesome to the Neighbourhood where they pitch'd their Tents.

8. All Persons deliver'd out of Gaol, that beg'd for their Fees, are included, because they had no sufficient Testimonials that they were not Impostors.

9. and lastly, Why those who pretended to be *Egyptians*, were deem'd Rogues, need not be enlarg'd upon. They are upon the same level with those who call themselves *Great Poles*, *Protestant Churchmen*, *Palatines*, *Hugonots*, &c.

I conclude from what has been said, that under all these Characters a Cheat was ever suppos'd; and that *Vagrant* and *Rogue* were inseparable Terms.

Hitherto, how widely distant are we from a Parallel with these poor Children?

Moreover, they cou'd not be Cheats; their Testimonials were from the Minister of the Parish from whence they came; from the Bishop of the Diocese whither they went; with the Approbation of the Rector, into whose Parish they came. I call all these Testimonials; because the very Leave given, was a sufficient Testimonial of their Cause.



The Institution of these *Charity-Schools* is laudable ; the End is most agreeable to all that is Just and Good : The Means were Candid, Open, and Fair, authorized in such a manner, as to take away the Suspicion of a Cheat. Consequently they cou'd not come within the Intent of this Act.

For this Act was never intended to prevent charitable Collections. Nor was ever such an Act made by any State or Power in the Universe, since the Creation of the World : For they may as well make a Law for the Establishment of Vice, and the Extinction of Virtue, as to pass such a Law as is incompatible with Christianity, and with the good of the State.

If the abovemention'd Act was calculated for the Extinction of all charitable Collections for the Poor, to destroy even *Charity-Schools*, and the Foundations of Virtue, the Act carries a lying Preamble in its Front. It is no Act to punish Vagabonds ; and rather, if it punishes one, it makes twenty, and even eats into its own Bowels. Nay, it must declare, that these poor Children, rescued by the Piety of others from Infidelity and perfect Barbarianism, are *Rogues*. That those, who in the Pulpit incite others by the Duty of their Office, and by the Bowels of Christianity to Contribute, are *Rogues* ; and that those who give their Money, are *Rogues* likewise. This is the plain and unavoidable Consequence, if those Children are Vagrants in the Eye of the Law.

O my God ! in what an Age do we live ! Are the Precepts of Christianity repeal'd by the Act against Vagabonds and Rogues ? Are six Thousand Children bred up in the Principles of the *Church of England*, and of Virtue, only collected out to be turn'd into Rogues ?

I hope the Reader will pardon a little Warmth on this Occasion ; the Blood must be very cold, that

that can lie quiet in the Veins, when such Provocations strike upon the Mind.

I hope our Adversaries will for Shame withdraw their Plea founded upon this Act, or make a publick Declaration against the eternal Laws of Good and Evil. Mr. *Hobbs* will bring them off upon this Occasion, if they will enter into a firm Alliance with his Principles: He will tell them, that as the Prince is Sovereign of his People, he is likewise Supream over all Laws. An Act of the State, therefore, can make the Clergy Rogues; can turn Chastity into a Sin, and Uncleanness into a Virtue: Can enact Religion to be a Cheat. And, in short, erase all the Ancient Land-Marks of Christianity, of Religion, and of Piety.

I conclude our Adversaries must find some other Act (as this will not serve the turn) which expressly declares, that no Intercession shall be made for Money, towards the carrying on any pious Design in any part of the Kingdom, without express Leave from the Crown. This, and nothing less will serve their purpose.

But alas! here is an utter Silence on their Side. They can supply the Place of express Laws, by Means peculiar to themselves. They can furbish up old Laws; clean 'em, give 'em new Intentions; and they shall serve on the contrary Side. Thus an Act against Conventicles shall oppress the Readers of the Common-Prayer; and an Act against Rogues and Vagabonds oppress the Poor.

This is a new Method, and it may prove in Time fatal to the Liberties of *Englishmen* to press a Law into a Service contrary to the Intention of the Legislator. This may give any Prince, ambitious of Power, a Spring over all our Laws at once. Here is no Security; the Barrier is taken away; and the Act against Cursing and Swearing, in Time, may encourage Blasphemy.

Thus



Thus much is sufficient for the first Head, if our Adversaries will insist upon any of the rest, the third is the most likely to be their Choice; and that a most wretched one into the Bargain.

For if they pretend to urge, that Parish Provisions for the Poor answer all the Ends of necessary Charity in a Commonwealth, I cou'd heartily wish to Congratulate with them upon the Truth of this Assertion.

Are there lawful Provisions made, that all the Poor in a Kingdom shall be well Fed, Cloath'd, and Instructed? If this were true, voluntary Contributions for *Charity-Schools* wou'd be vain, unnecessary, and impertinent.

Upon the whole, I conclude, That we have no Laws which forbid charitable Collections; nor can it be imagin'd, that any State can find their Account in suppressing the same, or have any Preference for so doing, unless they have already made such a plentiful Provision, as to make such Collections unnecessary. This, indeed, every honest Man, from his Heart, wou'd wish to see done; and wou'd agree with any Constitution, where Popery does not prevail. It would, indeed, spoil their Harvest of Merits, and open some new Method to compound for Sins, or leave People to make their Peace with God alone.

Its most certain, Virtue is the firmest Support of a Throne, and Penal Laws are necessary Evils. Our Nation would not be in a less flourishing State, if *Tyburn* was stub'd up and burnt, and our *Pillories* turn'd into *Jumping posts*; for this I would heartily give my Vote, and more especially when they become a Terror to the Innocent, as well as the Guilty.

I will not say, how vile it is to put an Interpretation upon our Laws, destructive to their own Meaning, and to common Sense. Can it be otherwise,

wife, to enact, That Men shall not be Virtuous, that the Poor shall not be Fed, and Cloath'd, nor the Youth of our Nation Instructed in the Principles of Religion, least by the Means of a good Education they should be turn'd into Rogues?

Whatever Opinion some People may have of Deists and Atheists, that they may support a Government, it is like calling in Barbarians to assist us in case of a War; they will infallibly in the end do more Harm than Good. They will drive away one Enemy, to make room for a worse in our own Bowels.

To return from this Digression, I shall more nearly press upon the Conduct of some, who committed the unhappy Trustees of the Children, as Vagrants.

This was only done upon a Supposition, That they design'd to Beg.

I would enquire, for my own Information, Whether an *Englishman* is to be punish'd for Facts before they are committed; that is as much as to say, for Facts not committed at all. Their Intention to Beg, if it was a Crime, should appear by some Overt-Act; for the Law does not admit loose Presumptions in Criminal Cases.

Moreover, The poor Children were brought down by their Trustees and Masters, under whose Government they were. They were meerly Passive, and could not be Criminals in the Eyes of the Law.

It remains, that they only who made the Collection, were Vagrants and Rogues, if there was any Roguery in the Case.

Nor could Mr. *Campman*, and Mr. *Prat* be taken up as Vagabonds, before they offer'd to Beg, unless they could not make out from whence they came: Whereas they were substantial Citizens, who did not take that Journey (by the Bishop's Permission)



Permission) to rob Henroofts, and tell Fortunes. They, in my Opinion, were too roughly attack'd, to be bound over as Vagrants.

By this time, I hope, this Dispute is plac'd in a fair Light. We have no Laws in being that declare no charitable Collections shall be made without Letters Patents, or Briefs; for I have seen and read numerous Petitions so communicated by the Bishop to the Clergy of the Diocess, for the Truth of which I can appeal to *Charles Norwich*, and many more.

Briefs are no more than Injunctions to the Clergy to recommend the Case of great Sufferers to their respective Congregations, which is look'd upon as a more powerful Motive, and a more ample Credential of the Loss sustain'd.

Moreover, this Method makes their Case more universally known thro' all parts of the Kingdom.

No other Scope can Briefs pretend to have. They do not monopolize the Charity of every well-disposed Christian to them alone.

Nor does it appear ever to be the Intention of Letters Patents, that no charitable Collections should be made without them, because such Things are done every Day; and the Prosecution of those Men has no Precedent, tho' the Laws against Vagrants have been from *Richard* the Second's Time, to this Day.

To make new Precedents 400 Years after a Law has been made, is a forward Step, and sometimes of dangerous Consequence. It seems to me like making our Laws squint; whereas they ought to carry a fair and open Face to all the World, unless they are design'd as Traps to catch Men before they are aware.

For Instance: Could any prudent Man dream, That in Collecting Charity for the Propagation  
of

of Religion, he should be catch'd in an Act of 49 *Eliz.* against Rogues? A Man employ'd in such an Heavenly Work, can have no dark Reflections in his Mind, nor Suspicion, that he is acting the part of a Rogue; but nevertheless, he is a Rogue, and he shall be fined for the same.

Moreover, while a Man in Holy and Episcopal Orders is Reading the Common-Prayer, according to the Rubrick, in his own House, can he suspect the Act 22 *Car.* against Conventicles, shall be upon his back. This, indeed, is somewhat like the *French Voleurs* Shooting a Man from behind a Hedge, or the side of an Hill, before he sees or thinks of Danger.

Well; but to grant our Adversaries their full Scope, let those Collections be unlawful, and let us suppose for once, A Man, a Saint in Heaven, and his Name in the Book of Life; while he is branded as a Rogue here below, and punish'd for the same.

I would ask, Whether Divine Laws are not superiour to Human ones in the first place? And secondly, Whether a Judge upon the Bench, a Jury upon their Verdict, or a Bench of Justices at the Sessions, are not to remember they sit there as Christians, as well as Judges? And consequently, if Human Laws interfere with the Divine, they can have no Commission to supersede Divine Laws; those Human Laws are no Laws to them in such a Case, and are consequently to be rejected with Scorn.

Collecting Charity, is a Duty of Christianity; and as God has made it a Duty, and annex'd suitable Rewards thereto, I should tremble to see any mortal Man so audacious, as to disturb one in the Performance of the same: I should expect the eternal Vengeance of God on that Kingdom which should pretend to make Laws against it;

D

which,



which, I thank my God, is not, nor I hope, ever will be our Case.

Our Blessed Saviour has made this Charity the *Criterion* of the Blessed at the last Day, and the Defect, the *Criterion* of the Damn'd. In what unhappy Circumstances are well-meaning Men, to be crush'd between Divine and Human Laws, like two Mill-stones.

This Compendious Way might have sav'd the *Jews* much Trouble, if the Apostles had been whip'd as Vagrants, for taking that Money which was made Common, and laid at their Feet for a Stock of Charity. *St. Paul* receiv'd a great many Lashes, and I dare say, he was neither a Vagabond, nor a Rogue. We find him speaking in this manner, *1 Cor. 16. 1, 2, 3.* *Now concerning the Collection for the Saints, as I have given Order to the Churches of Galatia, even so do ye. Upon the first Day of the Week, let every one of you lay by him in Store, as God hath prosper'd him, that there be no Gatherings when I come. And when I come, whomsoever you shall approve by your Letters, them will I send to bring your Liberality to Jerusalem.* I cannot find, that Saint Paul had a Brief, or Letters Patents from the Roman Emperors; or that *Tertullus*, who was paid to Speak all the spiteful Things he could invent, ever laid to his Charge, that he was a Vagrant; made Collections up and down into the Country, and put the Money into his own Pocket. How stupid were Saint Paul's Enemies, to omit a Charge so heavy, and which at least would have brought him to the House of Correction, and spoil'd his Appeal to *Cæsar*?

To come nearer to our own Nation, How stupid was Queen *Mary*, in suffering Collections to be made for the banish'd Protestants in their Exile, without applying this Law to those Collectors? And even their charitable Friends, in their Exile,

Exile, deserv'd to be whip'd for Rogues, if the same just Law had taken place at *Frankford*, as it is suppos'd to do in *England*.

\* Next, let the pious Contributors for *St. Paul's* come under the Lash ; all the Clergy who exhorted the People to be Charitable in that Affair, even into *Ireland*, without the Imputation of Vagrancy, shall not now escape.

In fine, the Opinion it self is monstrous, and needs no other Conviction than, that natural Horror arising from the bare mention thereof in the Mind of every Man, not lost to all Notions of Shame and Modesty.

Having thus clear'd the Way, I shall proceed to the Relation of that famous Engagement in the Church, so much for the Honour and the Credit of our Nation.

I observ'd before, that the Parish Heroes came piously to the Church, with a previous Design to say their Prayers, and to Fight. They had but just before lift up their Eyes to God, as *The Author of Peace, and Lover of Concord*, but they prepar'd themselves for Battle: I suppose in Imitation of *European* Princes, who never begin a War, except in order to procure a lasting Peace. Nay, I my self heard a Man in the same manner justify his beating his Wife ; tho' indeed, he carried it too far, and knock'd out her Brains before he attain'd his End.

Its my Opinion, these Gentlemen may have a Peace at last ; tho' in all Probability, the War may be of long Continuance, and perhaps much longer than they are aware.

The first Act of Hostility was, to seize upon the Collector for Gathering the Money while the

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\* See Heyl'n's *Life of Archbishop Laud*, lib. 3. A. 1631 p 217.



Sentences were Reading, in pursuance of the Rubrick.

From hence two Questions arise. 1. Whether the Clergy in that Church were regularly employ'd? 2. Whether, in case they were not, they were regularly disturb'd?

I would have the Reader previously observe, That our Common-Prayer, and our Canons are establish'd by Act of Parliament; the Preservation of the *Church of England*, in all her Privileges, is the Original Contract, the Basis upon which the present Government is establish'd.

The last Rubrick after the *Nicene Creed*, expressly says, That after the Sermon the Priest shall return to the Lord's Table, and begin the Offertory. *In the mean tyme whyles the Clearks do syng the Offertory, so many as are disposed shall offer to the poor mens boxe, every one according to his abilitie and charitable mind.* Rub. to the Communion Office of Edw. 6.

In the Rubrick after the Sentences, it is said, *While these Sentences are Reading, the Deacons, Churchwardens, or other fit Persons appointed for that Purpose, shall recieve the Alms for the Poor; and other Devotions of the People.*

Thus far they seem fully and expressly to answer the Intent of the Rubrick, to which no Reply can be made.

Moreover, we have an expresse Statute 21 H. 8. c. 6. §. 5. That Parsons, or Vicars may take Money, or other Things given to them, to the Church, or to the Altar.

Consequently, the People could lawfully dedicate their Money to the Altar, which in our Case was done; and the Minister might lawfully deliver the same to the Churchwarden, and thro' the whole, act in every Respect conformable to the Laws both of Church and State.

Does

Does the Rubrick limit the Offerings to any particular Time or Season? or says, that there shall be no Collection, if there is no Sacrament? If not, What Latitude must some Men use to turn this Action into a Riot?

I desire the Reader to observe Canon 84. 1603 which runs thus:

*The Churchwardens shall provide, and have, within three Months after the publishing these Constitutions, a strong Chest, with a Hole in the upper-part thereof; to be provided at the Charge of the Parish (if there be none such already provided) having three Keys; of which, one shall remain in the Custody of the Parson, Vicar, or Curate, and the other two in the Custody of the Churchwardens for the Time being; which Chest they shall set and fasten in the most convenient place, to the Intent the Parishoners may put into it their Alms for their poor Neighbours: And the Parson, Vicar, or Curate shall diligently, from time to time (and especially when Men make their Testaments) call upon, exhort, and move their Neighbours to confer and give, as they may well spare, to the Chest, &c.*

The next Step may be, to Indict all who at any time offer at the Altar, with as much Reason as the first; and when their Hand is in, they may very fairly Indict the Minister for administering the Sacrament of the Lord's Supper to his Congregation, or for whatever else they please. For, in short, no part of the Rubrick, or Common-Prayer is safe, upon these Conditions: For it is very hard, if the Clergy, in the due Execution of their Office, according to the Prescription of the Rubrick, can be prosecuted upon the Statute against Rogues and Vagabonds.

Our next Question remains, Whether they could be lawfully us'd in that manner?

In the discussion of which I shall be as clear as possible.

The



The first Article of *Magna Charta* says, 'The Church of England shall be free, and shall have all her whole Rights and Liberties inviolable.

This was confirm'd by 14 *Edward* 3. c. 1. 25 *Edw.* 3. c. 1. 50 *Edw.* 3. c. 1. 1 *Rich.* 2. c. 1. 2 *Rich.* 2. c. 1. 3 *Rich.* 2. c. 1. 5 *Rich.* 2. c. 1. 6 *Rich.* 2. c. 1. 7 *Rich.* 2. c. 1. 8 *Rich.* 2. c. 1. 12 *Rich.* 2. c. 1. 1 *Hen.* 4. c. 1, 2, 4, 7, 9. 13 *Hen.* 4. 3 *Hen.* 5. c. 1. in as strong Terms as the preceeding. The same is also first insisted upon in our Ancient *Saxon* Laws.

Moreover, since the Revolution by an Act for establishing the Coronation Oath, the Prince promises to preserve unto the Bishops and Clergy of the Realm, and to the Churches committed to their Charge, all such Rights and Privileges as by Law do, or shall appertain to them.

This promissory Oath the present Prince solemnly made, and swore upon the Holy Evangelists.

From hence it is evident, That the Rights and Privileges of the Church and Clergy are woven into our Constitution, and are the essential parts thereof.

I shall next present the Reader with an Act made 5 *Edw.* 6. c. 4. against striking or drawing a Weapon in Church or Churchyard.

' Forasmuch, as of late divers and many outrageous and barbarous Behaviours and Acts have been us'd and committed by divers ungodly and irreligious Persons, by Quarrelling, Brawling, Fraying and Fighting openly in Churches and Churchyards. Therefore it is enacted, &c. That if any Person whatsoever shall at any Time after the first of *May* next coming, by Words only, Quarrel, Chide, or Brawl in any Church or Churchyard, that then it shall be lawful unto the Ordinary of the Place where the same Offence shall be done, and prov'd by two lawful Witnesses, to suspend every Person so offending; that is to say, if he be a Layman, *ab ingressu*  
' *Eccle-*

‘ *Ecclesiæ*; and if he be a Clerk, from the Ministration of his Office for so long time as the said Ordinary shall, by his Discretion think meet and convenient, according to the Fault.

And farther, ‘ Be it enacted by the Authority aforesaid, That if any Person or Persons, after the said first Day of *May*, shall smite or lay violent Hands upon any other, either in any Church or Churchyard, that then (*ipso facto*) every Person so offending, shall be deemed Excommunicate, and be excluded from the Fellowship and Company of Christ’s Congregation.

Provision is likewise made for the same orderly Behaviour by Canon 18. 1603. That no Person shall disturb the Service by Walking or Talking, or any other way.

By 111th Canon, such Persons shall be presented.

Moreover, as *Gibson* in his *Codex Juris Ecclesiastici* observes, they are excepted out of general Pardons; of which he gives no less than seven Instances.

In the Toleration Act 1 *Will. & Mary*, c. 18. the publick Churches are equally guarded as the dissenting Congregations; such Provision being in my Opinion no more than Reasonable and Just.

By the 1st *Mar.* §. 2. c. 3. it is order’d, That no Preacher or Minister shall be disturb’d in the Church, nor shall any Person by any Overt-Act, Word or Deed, maliciously or contemptuously molest, let, disturb, vex or trouble, or by other unlawful Ways and Means disquiet or misuse any Preacher or Preachers that now is, &c.

They shall be apprehended and committed by a Justice of the Peace, who with one other shall Examine him in six Days, and finding him guilty, shall commit him to Gaol till the next Quarter-Sessions, without Bail or Mainprize for three Months.



Months. And farther, till the next Quarter-Sessions; where submitting, they shall be discharg'd, finding Sureties for their good Behaviour; but without Submission, they shall remain in Gaol.

These Instances are sufficient for my purpose. I conclude, that the Minister was at Divine Service, acting conformably to the Rubrick and Canons; and could not regularly be disturb'd for the same.

If he did not act according to the Rubrick, he was accountable only to the Ordinary, who punishes such Crimes.

I have prov'd, such Collections are according to Law; they are prescrib'd by the Rubrick and Canons.

As to the Rubrick, it supposes such an Offertory, when there is no Communion.

The abovesaid Canon impowers the Clergy to use their own Discretion in exhorting their People to Charity.

Here could, therefore, be no Breach of the Peace; for their meeting together, was upon a lawful Account: It was upon a publick Day, even *Sunday*, at the usual Hours for Divine Service. Their Assembling therefore, could be no Riot.

For first; *Hawkins*, in his *Pleas of the Crown*, tells us, a Riot is an unlawful Assembly, met to promote any publick Disturbance. Now I can easily grant, That Assembling, if follow'd by a riotous Action previously intended, shall be a Riot.

However, if no subsequent Action comes up to a Riot, their lawful Meeting shall not aggravate the Crime, or make it appear more heinous to the Jury.

A Riot must carry therewith some particular Marks of Violence. Every Action against a Statute (as *Hawkins* observes) is not a Riot, no more than any Breach of the Common Law; for every

by Offence of this Nature must be said to be done in *Terrorem populi*: Now it is the greatest Violence offer'd to the Law imaginable, to make one Act authoriz'd by the Minister of the place, without any Terror turn the whole Congregation into Rioters. This is meer Nonsense, nor can be supported by any Colour of Law, or of Reason.

If several Men upon an Agreement meet to go to Market upon their lawful Occasions, and when they come there, one defrauds another in a Bargain; this is an Offence against Common Law, but no Riot.

To come nearer to the purpose, if after the collecting of a Brief, the Churchwardens in the Church agree to divide the Money amongst themselves; this shall be an unlawful Act, and against the Statute, but no Riot.

One, as I am inform'd at the Tryal, turn'd it another way. As neither Sword, nor Staff, nor other Weapon was used; forceable Arguments (says he) are Equivalent thereto, which draw Money from the Audience.

I would ask that Gentleman, whoever he was, whether he ever extorted a Bill of Costs from a Jury by his Eloquence? Or, if he so did, whether it was a Riot?

Moreover, I would ask, if we have any Rule against perswading Men in a rational Way to pursue the Duties of Christianity? Reason carries no involuntary Force or Compulsion therewith; it strikes upon the Mind, and requires only a willing Assent. And a Servitude to Reason, is the most glorious Freedom a Man can enjoy.

If a Man in the *House of Commons*, should use forceable Arguments, to perswade the House to Vote away Two Millions at a Blow; would this be call'd a Riot, even though he should raise a Terror in their Minds, with the Prospect of an In-



urrection at Home, or an Invasion from Abroad?

Do we, in this Age, find such diffusive Charity to prevail, notwithstanding so much Terror used from the Pulpit? if so, why do we see Men of Learning and Piety want the common Necessaries of Life?

I would require to know, whether the Beggars in *Lincoln's-Inn-Fields*, extort Money riotously from the Passengers, by the violent Emotion of Compassion, from a view of their Wounds, maimed Carcasses, and putrid Sores?

I hope our Gentlemen, by this time, have no more to say as to a Riot on the side of the Minister, in performing his Duty in his own Church, where no Man is allowed to speak or act, except himself, or those commissioned by him. It is his Freehold, exempt from all Jurisdiction, except his Ordinary, to whom alone he is accountable.

For if he was accountable for every Omission or Fault within Doors, to be tried as a Rioter without, the Church Establish'd is in a most miserable State; she wants a Toleration; she wants Acts of Parliament to secure her, while her Enemies are guarded by Laws, and fortified by Penalties from any Insults; nay, are capacitated to sit as Judges upon her, and Convi&ct her. But of this more hereafter.

To return to our Story.

These Gentlemen appear'd at *Maidstone* upon their Recognizances; but no Indictment being found against them, they mov'd to be discharg'd. But the Justices oblig'd them to put in fresh Bail for their Appearance at the next Assizes, where they appear'd.

By this they were condemn'd by that Honourable Bench, from which they might reasonably have expected a Discharge. Perhaps

Perhaps the Reader may be curious to know what happen'd most remarkable from the time of their being Bound over at the Sessions, to their appearing at the Assizes.

Mr. *Farrington*, upon this Occasion, was pleas'd to say, That thus they design'd to serve all the *Charity-Schools* in *England*.

A very pious Resolution, to extinguish the Hopes of the Poor, and turn Children loose to their Native Savageness, who had been brought into Care of well-dispos'd Persons, to be under the Restraint of Laws, and of Religion.

A design of this Nature is most agreeable to some Men, whose Manners have been never reduc'd into form; and who still retain the same Vacancy of Principle, with which they were Born.

In the mean time, they do peculiar Honour to the Government they pretend to Love; the Government must be supported, *Ergo*, the Seminaries of Virtue must be destroy'd; the Children are there taught the Principles of the *Church of England*, *Ergo*, they are nurs'd up in Rebellion against King *George*.

These are Consequences that contain other Consequences, not safe nor proper here to mention: However, they are Consequences more fit to come from the profess'd Enemies of the Government, than from their Friends,

I confess, that if what happen'd upon this Occasion was lawfully perform'd, the *Charity-Schools* have a very precarious Foundation; and whether the Devil would not smile to see his own work so artfully carried on, let those judge who are vers'd in the Histories of former Ages, and of our own? For where-ever he settles his Empire, Learning and Religion fly before him. And as they gradually gain their Ground, he gradually looses his. I really believe, he is more delighted with the Pro-



spect of 40000 Men ready to engage in the Field of Battle, than to see 40 Boys and Girls walking in the Streets with their Bibles under their Arms; the first promises him a new Accession of Strength and Numbers to his Dominions; and the latter snatches the tender morsels from his Mouth, just ready to be devour'd; it strikes at the very Source of his Hopes, and brings them tumbling to the Ground.

I take it for granted, such Men will claim Society only with the Goats. At the last Day our Lord may say to them, *I was cloathed, and ye uncloathed me; I was fed, and ye made me hungry.*

They have endeavoured to make the World believe, the Government is Interested in the Destruction of these poor Wretches. Alas! mean Game for such a Potentate to strike at, whilst greater Things are upon the Anvil. Cardinal *Alberoni*, and the *Czar*, are Objects more worthy of Consideration than they. Those whom God has afflicted, let not Man augment their Misery. It is against the Laws of Nature, and the Bowels of Compassion, to cause the Eyes of the Widow to fail, and oppress the poor, by stopping up the Fountains of Charity, which Water the barren Fields of Poverty, and entail Blessings upon our Country.

The Reader may, perhaps, be offended at my Interesting my self in this dispute, even to a transport; which is owing to the natural Temper of my Mind that feels a secret Pleasure, at the sight of those Children, and indeed it is the only pleasant Spectacle I ever delighted in; though I have been present at many publick Entries and fine Shows.

However, if they must be destroy'd; if the Protestant Religion is not secure till an Universal Ignorance and Barbarity prevails; I desire Mr. *Justice* to desist, till he has more Law on his side. Let him stay for some new Act of Parliament, for as  
we

we are *Englishmen*, we insist upon our Laws, our Contracts, and our Coronation-Oaths, the Barriers of our Liberties; and surely no *Whig* has any thing to say against these Topicks. But alas! Power is an *Asylum* both to the Just and Unjust.

Well; to return to the Scene of Action. The Defendants were tied down like Bear to Stake, to hear the whole Order redicul'd, and themselves expos'd as common Cheats, in a very merry Speech made by a very merry Council of the Law, who play'd his Part so well, as to be retain'd the second Time to plead at the Assizes; where he perform'd equally to the Indignation of the Wise, and to the Admiration of the foolish part of the Audience.

He there makes the *Charity-Sermons* a Stroling Farce; in which the Clergy act a Part very suitable to their Characters, if they are such Men as the Deists represent 'em to be.

The Preachers were the Strolling Divines, Itinerants, Mendicants, going about with Puppet-Shows, and Fiddles before them, in order to pick Pockets. He represented the Sight of the poor Children (commonly appeal'd to in order to move more effectually the Compassion of the Audience) as little better than a Juggle; something thrown before the People to deceive their Sights. The pathetical Harangues generally used on such Occasions, and the frequent Repetitions of Heaven, Hell, and a future State, he represented as Charms to impose upon the Passions, to raise a Spirit of Liberality in the Congregation, which oftentimes made them give beyond their Fortunes, and thereby disabled them from paying their just Debts, Taxes, and Church Rates. And as for the Hymns sung by the Children, they were indeed, said to be sung to the *Praise and Glory of God*; tho' every one knew, that their own Interest was at the bottom;



tom ; and, that they were well paid for their Musical Entertainment of the Company ; that the poor Children were only Instruments made use of by ill-designing Men, and had, perhaps, but little Share in the Collection.

Some stood amaz'd at this fine Harangue, as tho' they had been bewitch'd into some Foreign and Barbarous Shore, where no Principles of Religion had ever taken Root. For this was only in Miniature exposing the grand Cheat in all Religion. These Juglers were no less than Episcopal Clergy, performing the common Duties of Religion by Episcopal License in Churches, according to the present Establishment, which the Prince now Reigning, is oblig'd by the strictest Ties to defend.

If the Considerations on Heaven, Hell, and a future State, are no proper Motives to Charity, then there ought to be no such Thing as Charity in the World. And if they are Charms, all the Clergy ought to be sent to Houses of Correction ; and not till then will the Protestant Religion flourish.

We are come by this time within an hopeful View of Things. The People have been charm'd and cheated into Virtue ; they have been riotously frightened by the Terror of Hell ; and ludicrously baffled by the Prospect of Heaven to resign their Native Rights and Liberty of being wicked. They have been restrain'd from the use of their Neighbours Wives ; from the Enjoyment of his Fields and Estates. And, in short, been deluded with the Prospect of another World, to forego all the Pleasures of this.

If these Men are the only Friends to the Government, the Government is happily supported. They are sure, if encourag'd, to make handfom Work in the Field, in Council, and at the Bar.

Their

Their Courage, their Fidelity, and their Honesty will be very Instrumental in procuring Conquests Abroad, wise Measures at Home, and impartial Distribution of Justice to all, except those of a contrary Party to themselves in the Kingdom.

However, it is to be hoped the Government scorns their Friendship, which I have often heard them confess was founded upon no other Bottom, than Interest and Possession.

To return: If these Clergy are such common Nufances, that a Man cannot Sin in quiet, and they make it their Business to scare Folks; the Justices acted in their Sphere in prosecuting them as Rioters, common Cheats, and Impostors.

For, What is the Reason a Man well-affected to the State, shall not Sleep in his Bed quietly, because he is wicked?

Our Justices therefore, are the most vigorous Assertors of the Liberties of Mankind, because they endeavour to set the Soul free from the Slavery of Reason and Religion. At the Revolution, the Clergy retain'd their Power; preach'd against fashionable Sins; and every *Ashwednesday* damn'd half the great Men to their Faces.

Upon the whole, I conclude, Mr. Council very handsomly expos'd the Establish'd Church, and the Joys of Heaven, together with the Punishments of Hell; and therefore merited the Thanks of the greater part of the Audience, who had no Prospect of the first, and were damnably afraid of the last.

This elaborate Speech being ended, Mr. *Blundell* of *Greenwich*, in a short, zealous, and serious manner express'd his great Concern for their Mirth at a Speech that ought rather to raise their Horror; and his Surprize, to find they had so little Regard for *Religion* in general, and that of the *Church of England* in particular; that they could suffer  
its



its Constitution to be so openly violated; its Service to be so shamefully redicul'd; its Ministers to be so scandalously abus'd; interrupted in the Execution of their Office; to be bound over to the Sessions for doing what they were every way oblig'd to do: And to be continued bound over to the next Assizes (for so they were) without any Indictment found against them, or so much as once asserting what Crime they had been Guilty of.

I would have the Reader observe, The Crime was not found out: Criminal they certainly must be.

The Resolution was fram'd, tho' the Means were reserv'd to Time.

The Rector, with the Fatigue of his Journey to *Maidstone*, and the ill Usage he met with there, dy'd in less than 48 Hours after his Return. Thus they broke the Heart of one. A fair beginning! and an hopeful Omen for the rest.

This Gentleman shew'd more Charity to his Enemies, than they ever practiced themselves; by his Will on his Death-bed he left to two Champions in that Ecclesiastical Quarrel, viz. *Stephens* and *Farrington*, each a Gold-Ring; and excluded the third, for this Reason, That he had not been at Church four Years before. *Quere*, Who were the most candid Enemies?

The same Gentleman left 200 Pounds to the *Charity-School* of *Bromley*, in that Neighbourhood; for which, according to Modern Sentiments, he dy'd Impenitent; and consequently, with some Men, he liv'd and dy'd a Supporter of *Vagrants* and *Rogues*.

They accordingly appear'd at the next Assize. The Indictment against them, run thus.

Kent.

Kent. ff. } Juratores pro Domino Rege super Sa-  
 cramentum suum presentant, quod  
 Willielmus Hendley nuper de Chiffelhurst in Comi-  
 tatu Kantiae Clericus, Georgius Campman nuper de  
 eadem Painter, Robertus Hicks nuper de eadem La-  
 bourer, & Filiar Harding nuper de eadem Packer, &  
 Walterus Prat nuper de eadem Upholsterer, Existen-  
 tes Personae seditiose & male dispositi, ad Guberna-  
 tionem hujus Regni sub Excellentissimo Domino Geor-  
 gio, nunc Rege feliciter stabilito Maxime averse, &  
 iniqui Lucri avidi, & nequiter & Injuste Intendentes,  
 Grandes Denariorum summas illicite lucrari & obti-  
 nere sub colore Colligendi Eleemosinas & alias Charita-  
 tes & Dona ad Sustentationem & Mantentionem  
 Diversorum puerorum & puellarum scilicet viginti  
 puerorum, & triginta puellarum, vicesimo quarto die  
 Augusti, Anno Regni dicti Domini Georgii, nunc Re-  
 gis Magnae Britanniae, &c. quinto, apud Chiffelhurst  
 in Comitatu Kantiae praedicto inter sese & Quamplu-  
 rimas alias male dispositas personas juratoribus praedi-  
 ctis Ignotas; Conspiravere & Confederavere cum praedi-  
 ctis pueris & puellis pro obtinere, itinerari, & va-  
 gari ad diversas parochias in Comitatu Kantiae praedi-  
 ctio; & in aliis Comitatibus Angliae in parochiali-  
 bus Ecclesiis & aliis parochiis illicite & Injuste Lu-  
 crari, Colligere, & obtinere diversas Grandes Denariorum  
 summas, colore & prae-textu Colligendi Eleemo-  
 sinas & Charitatis Dona pro Sustentatione & Man-  
 tentione praedictorum puerorum, puellarumque; &  
 Juratores praedicti super Sacramentum suum ulterius  
 presentant; quod praedictus Willielmus Hendley, Geor-  
 gius Campman, & Walterius Prat in Prosecutione  
 & Performance Conspirationis praedictae & juxta  
 Conspirationem & Confederationem praedictam inde pri-  
 us Habitam ad nequissimas intentiones suas praedictas  
 ad effectum Redigendas, postea scilicet vicesimo quar-  
 to die Augusti Anno quinto supradicto apud Paro-  
 chiam



*cbiam de Chiffelhurst prædictam in Comitatu Kantie prædicto, cum prædictis pueris & puellis seu aliquo seu aliquâ eorum ad tunc non Existentibus, Residentibus, vel Residentes, nec nato, seu nata, infra Parochiam de Chiffelhurst prædictam itineraverunt iverunt & vagati fuerunt ad Parochialem Ecclesiam de Chiffelhurst prædictam & in Parochiali Ecclesia de Chiffelhurst prædictâ, die dicto scilicet vicesimo quarto die Augusti Anno quinto supradicto; sese cum prædictis pueris & puellis & multis aliis male dispositis personis juratoribus prædictis ignotis, Assemblaverunt in Ecclesia Parochiali de Chiffelhurst, prædicto Tempore Celebrationis Divini Servitii in eadem: ac prædictus Willielmus Hendley ad tunc Servitii & ibidem secundum Conspirationem prædictam, inde ut perfertur, hic illicite & Injuste absque Licentiâ dicti Domini Regis, seu alia Legali Authoritate quacunque; Incitavit & Rogavit Parochiantes & alias personas in eadem Ecclesia ad tunc & ibidem Existentes, dare Eleemosinas, & alia Charitatis Dona, sub colore & prætextu Charitatis exhibere pro prædictis pueris & puellis. Ac idem Georgius Campman, & Walterius Prat, non Existentes Guardiani Ecclesiæ Parochialis prædictæ, vel alii officarii de dicta Parochia, seu Inhabitantes seu Commorantes in, seu infra dictam Parochiam de Chiffelhurst secundum Conspirationem prædictam, ut perfertur. Inde hic illicite & Injuste sub colore & prætextu Colligendi Eleemosinas & Charitatis Dona pro Sustentatione & Supportatione prædictorum puerorum & puellarum; ad Rolandum Tryon Parochianum prædictæ Parochiæ de Chiffelhurst & alias personas in eadem Ecclesia tunc Existentes, durando Tempore Divini Servitii in eadem Ecclesia tunc Celebrandi; illicite & Injuste accesserunt & requisiverunt eos dare Eleemosinas, & Charitatis Dona, & illicitis præpositis prædictis ac iidem Georgius Campman, & Walterius Prat, ad tunc & ibidem sub colore & prætextu Colligendi Eleemosinas & Charitatis*

*tis Dona; ad tunc & ibidem in Prosecutione Confederationis & Conspirationis prædictæ, & secundum Conspirationem & Confederationem prædictam, inde prius ut perfertur, ac absque aliqua Legali Authoritate Colligere, Recipere, & obtinere, diversas summas Monetæ, in toto attingere ad tres Libras a prædicto Rolando Tryon, & aliis Parochianis & Inhabitantibus prædictis & aliis Personis in Parochiali Ecclesia prædicta Existentibus, in maxima Disturbatione Quietis Celebrationis Divini Servitii in eadem Ecclesia tunc celebrandi per Georgium Wilson Rectorem ejusdem Ecclesiæ; in maxima Defraudatione & Deceptione prædicti Rolandi Tryon, ac prædictorum aliorum Parochianorum Parochiæ de Chiffelhurst prædictæ & prædictarum personarum in eadem Ecclesia tunc Existentium; in malum & pessimum Exemplum omnium in simili casu Delinquentium contra Leges, ac in Contemptum dicti Domini Regis, Legumque suarum, nec non contra pacem dicti Domini Regis, Coronam, & Dignitates suas.*

MITCHELL.

The Sum of the *Indictment* in *English* runs thus :

THE Jury for our Lord the King Present. That *William Hendley*, late of the Parish of *Chiffelhurst* in the County of *Kent* Clerk, *George Campman*, lately of the same Painter, *Robert Hicks*, lately of the same Labourer, *Filiar Harding*, lately of the same Packer, and *Walter Prat*, lately of the same, Upholsterer, being evilly and seditiously dispos'd to the Government of this Kingdom, under our most excellent Lord *George*, and averse to the Happy Establishment thereof, and wickedly desirous of Gain, and most horridly and unjustly intending to procure to themselves unlawful Gains, under Pretence of Collecting Charities, Alms, and Gifts for the Sustentance and Maintenance of Boys and Girls,



viz. 20 Boys, and 30 Girls; on the 24th Day of *August*, in the Fifth Year of our said King, did, in the aforesaid Parish of *Chiffelhurst*, with several other ill dispos'd Persons (to the Jury unknown) Conspire and Confederate with the said Boys and Girls, to wander up and down in *Kent*, and divers other Parts or Counties in *England*, in Order to Collect great Sums for the aforesaid Purposes. And, That the said *William Hendley*, *George Campman*, &c. in Order to put their said wicked Intentions in Execution, did, on the 24th Day as abovemention'd, at the aforesaid Parish, with the said Boys and Girls (none of them being Natives of that Parish) wander, itinerate, and strole to the said Church; and there did assemble in the said Parish-Church at the Time of Divine Service; and there, at the Time of Divine Service, the said *William Hendley* (to prosecute his Conspiracy, without any License from the King, or legal Authority) did Incite and Ask of the Parishioners, Charities, Alms, and Gifts; tho' neither *George Campman* nor *Walter Prat* were Churchwardens, or otherwise Officers of that Parish, yet they did there, in Divine Service, unlawfully extort these Charities from the Inhabitants, amounting to the Sum of three Pounds, from *Rowland Tryon*, and other Inhabitants, to the great Disturbance of Divine Service, at that Time celebrating by *George Wilson* Rector of that Church, to the great Defrauding and Cheating of *Rowland Tryon* and the other Parishioners, for a wicked and evil Example of all offending hereafter in the same manner, against the Laws, and in Contempt of our said King and his Laws, and against the Peace of the said King, his Crown and Dignity.

Here was an heavy Charge drawn up, worthy of *Tertullus* against *St. Paul*, who might by the same Rules have been punished as an evil and disaffected Person to *Cesar*, an Enemy to his Crown and Dignity; for only by a change of Names, the Indictment would have equally affected that Apostle, as any one tried at that Court.

The Reader, perhaps, may desire my Opinion of this Indictment, which I shall give him in a very few Words.

The Preamble of this Indictment asserts, the Defendants to be evilly disposed to the present Government; from whence I observe, that this ought to have been sworn at the Tryal \*, for as it is the highest Charge of the Indictment, it was an essential Part thereof.

If an Highwayman should be Indicted for having treasonable Intentions to subvert the Government, and destroy the King; I say, this Indictment would have too much Pepper and Salt, and would be seasoned too high.

For it is Essential to Indictments to contain Certainty, for this we have the Opinion of *Lambard*, *b. 4. c. 5. §. 487.* and of other succeeding Lawyers. If they contain more than Certainty, they are void.

For it has been determined, that if an Indictment be that *A.* spoke such Words against the King, and lay them down for certain, *vel his similia* †, the Indictment is void for the Uncertainty.

Moreover, if one Branch of the Indictment is specified as certain, and the other not, the Indictment is void.

\* *Mr. Marsh, one of the Council against the Defendants, called this, The Pepper and Salt of the Indictment.*

† *Lambard, p. 498.*



If I understand this pepper'd Indictment right, it was for no less than High-Treason.

For the Fact was directly charg'd upon them to be, Aversion to the present Government of this Kingdom, under His Majesty King George. The Overt-Act was expressly there charged to be their Assembling in the Church of *Chiffelhurst*, and collecting the aforesaid Charities, which must therefore be the Act of High-Treason.

That Clause, *Being evilly and seditiously disposed, &c.* can be understood only two ways.

1<sup>st</sup>, As the wicked Intention, declar'd by the succeeding Overt-Acts. Or,

2<sup>dly</sup>, As the necessary Consequence of the said Act of collecting Charities, as inseparable, as Guilt is from Sin.

If the first, a Man cannot be more strongly indicted for High-Treason. I desire no stronger Pretensions to the Gallows, than an Indictment of that Nature, proved by two Witnesses; this would be plain High-Treason in the Eye of the Law.

As to the second, I desire to know, whether the Consequence is Natural, or consistent with common Sense? I grant that in Cases of Treason or Murder, the not having the Fear of God before their Eyes, is a very plain and easy Consequence; the Result of every private Man's Reflection, for Actions of that Nature, were never pretended to be done in the Fear of the Lord, unless in the Times of the *Grand Rebellion*.

But, that collecting Charities, and preaching Sermons, is a previous Mark of Disaffection to the present Government: Or, that the latter is the Consequence of the former, is false, because it was a common Practice encourag'd by the *House of Lords*, by the late Lord Chancellor in Person, and by all the Bishops in *England*. Therefore, the Indictment, in this Sense, was void; and in the first Sense, High-

High-Treason ; so that Mr. *Hendley* has Reason to pull off his Hat, and thank the Court that he was not Hang'd.

To wave this, and argue with these Gentlemen in their own way, I would ask upon what the Indictment was founded.

Was it founded upon a Statute against Riots ? Regular Indictments upon Statutes, must pursue the very Words of the Statute, I would therefore enquire in what Statute these Words are found, *viz. Assembling in the Church at the time of Divine Service*, or where-ever this was term'd a Riot.

Nay, I should be glad to find what Statute the Indictment could even probably be founded upon, this therefore could be no Indictment upon a Statute.

In short, it was no legal Indictment, it was only patched up to serve a present purpose, with haste and incogitancy ; though in other Cases, the Gentleman who approv'd the same, has distinguish'd himself in a more handsome manner, if a Conjecture can be made from the Post he now enjoys.

Moreover, I cannot Account, why *vi & Armis* was omitted in this Indictment, because it is a Phrase of Form, and us'd even in Indictments against common Cheats.

Thus we are still at a loss to find, what the Indictment was founded upon.

If the Statute against Vagabonds was obscurely meant, if we examine the Form for indicting Rogues or Vagrants, it runs in a contrary Strain.

There it is alledg'd, that *A. B.* being at least seven Years old, of an healthful Body, and able to work, but using neither any Art, Mystery, or Trade, came into the Parish, &c. was there seiz'd Begging by the Constable, and that *G.* knowing the same Person to be a Rogue and a Vagabond, reliev'd him against the Statute relating to that purpose.

I would



I would ask these Gentlemen, whether here is any Suggestion that *A. B.* was evilly and seditiously inclin'd to the Government then in being? and in pursuance of that evil Intention, wandred up and down begging, when he was able to work.

Moreover, if the common Form had been strictly adher'd to in the Indictment, now under Examination, it must have run in this manner.

Whereas *William Hendley*, Clerk, being strong of Body, and able to work, and having no Profession or Handicraft Trade, came down to the Parish of *Chiffelhurst* begging, and was there seiz'd by the Constable in the said Act.

The Reader will agree with me, That the Indictment would have been the subject of Laughter to the whole Court; and yet, if any Indictment, lay, it ought to have been in that Form.

If this Form was incompatible with Mr. *Hendley's* Case, he could not be indicted upon any Statute of that Nature.

I know very well they design'd the Indictment to be special, however awkwardly it was contriv'd; special it was in one Sense, as it had no Precedent, which is very grating to the common Law, which is founded upon Precedents, variety of matter do frequently arise, yet there are none but have some Analogy with Cases, which have happen'd before, which cannot be said of this.

Crimes must arise from the Transgression of some Law, and it is essential to that Law to be known; now this is a new Crime, and the Transgression of a new Law, never known before.

The Indictment was really like *Hudibras's* Beard, of different Colours, for never did Man read such a medley of different and heterogenous Accusations, nor nothing Criminal was ever prov'd.

I appeal to all the Lawyers in *England*, whether it is not a Maxim, That if one Branch of the Indictment

dictment is false, the whole does not fall to the Ground.

There were, in my Opinion, Allegations in the Indictment, which were never prov'd, viz. That Mr. *Hendley* design'd by this begging Trade a double Cheat. *First*, To defraud the Congregation, by picking their Pockets. And, *Secondly*, To cheat the Children of their Share.

I would ask, if this latter Part was alledg'd by the Friends and Patrons of the Children, who were tender of their Interests, if not, this Part might very probably be a surmise; and more probably so, if we consider, that the Allegation was made by profess'd Enemies to all the *Charity-Schools* in *England*.

In the second place; to be Guilty of cheating the People, unless it appear'd by sufficient Testimony, that he extorted Money by false pretences, is very dark. All which Matters of Fact ought to have been Sworn to by credible Witnesses, and moreover, an Instance ought to have been specified in the Indictment, even, to the scrupulous exactness of the Hour of the Day.

The Indictment, in my Opinion, ought to have been quash'd, because no Criminal Action is there charg'd in so particular a manner as it ought to be.

For, the Assembling at the time of Divine Service, cannot be a Criminal Action, 'till the Church-Doors are for ever clos'd by an Act of the State.

Moreover; another Falsehood appear'd in the Indictment, sufficient alone to have quash'd the same, and to have spoiled all the Scheme.

For, one of the suppos'd Criminals, *Harding*, by some was Sworn to be in the Gallery, by others in the Body of the Church; but it did not appear by any Evidence, that he was concern'd in the Fact more than the Justices themselves, *Quod non Appa-*  
G
ret,



*ret, non est*, is a fundamental Maxim in Law. As he therefore ought to have been acquitted, the meanest Lawyer can inform the World, that the rest likewise ought to have shar'd in the same Fate.

As to the Indictment, it was so far from containing Certainty, that there was not one thing prov'd or alledg'd therein.

The first Article of their being ill-affected to the Government, was not so much as endeavour'd to be prov'd. This was put in to *season* the Indictment *high*.

2. That they endeavour'd to possess themselves of several Charities, did not appear by any Evidence.

3. That they had no lawful Authority, was false in Fact, as was prov'd by four Witnesses.

4. That they disturb'd Divine Service, is likewise false, as was prov'd by two Witnesses.

5. That what they did was by way of defrauding the several Contributors, is false, because the said Contributors did swear, that they were not defrauded; and they had as good Opportunities of knowing that Case as the Court, or at least they had most Reason to complain if it had been true.

In short; no part of the Indictment was true, except this one particular: That they came to Church on *Sunday* Morning at Ten, the usual Hour of Prayer.

If this was Criminal, the Church, (as she is call'd,) stands a very ill Chance.

To return to the Cheat. If Mr. *Hendley* was indictable for the Money he receiv'd from the voluntary Effusion of the People, they were cheated by their own consents. The most agreeable and inoffensive Cheat in the World.

I would

I would ask one Question more, and then I shall conclude my Speculations on this *Lawyer-like* Indictment.

Can an Action lie against a Beggar for taking Alms?

If not; no Indictment can lie upon the Account of any Damage sustain'd, by giving the said Beggar Alms.

Moreover, what Indictments have to do, where only common Actions lie, I cannot tell.

Upon the whole, I conclude, That the Indictment was properly no Indictment, nor even like an Indictment, except in the first and last Line; I hope, the Gentleman who fram'd it, will excuse my Freedom and just Regard to Truth.

That the Names of great Men may not be forgotten, I shall transmit to Posterity the Catalogue of the Jury.

*Sir Thomas Roberts of Cranbrook, Bar.*

*William Honynwood of Cheriton, Esq;*

*Edward Gulston of West-Farley, Esq;*

*Richard Lewin of Lee, Esq;*

*John Smith of the same, Esq;*

*Edward Hodsdon of Lewisham, Esq;*

*John Sish of Greenwich, Esq;*

*William Clapham of Eltham, Esq;*

*William Simmons of Marden, Esq;*

*Henry Wraigh of Offspring, Esq;*

*John Gore of Minster, Esq;*

*John Batchelour of Raynham, Esq;*

N. B. The Jury for the County was industriously set aside, and the above-mention'd were impanell'd out of the Grand Jury.



The Cause was open'd by the opposit Council, who urg'd the Unprecedented of the Fact, and the Illegality of collecting Monies without *Letters Patents* or *Briefs*.

As to the Unprecedented of the Fact. I desire the Learned Councils Pardon, if I contradict them to their Faces, as to the Truth of this Allegation.

In our own Age, Monies have been collected for *Charity-Schools*, for *Fires*, &c. which I have already prov'd.

Sermons, for those Collections, are preach'd almost every *Sunday* by the most evident Divines of all Ranks, in *London*.

An Act of Parliament before cited, observes, That many charitable Collections were made by well-dispos'd People, for the Sufferers by the great Fire, and the Plague in *London*, previous to the Royal Proclamation, and Independant thereof; as the Words of the Preamble declare, viz.

In most humble manner shew, &c. *That in the late dreadful Calamities of the Plague and Fire hapning in your Majesty's City of London, and Liberties thereof, and other Parts of this Kingdom; divers well dispos'd Persons, as well within your Majesty's Dominions, as in other Places beyond the Seas, were pleas'd to contribute their Charity towards the Relief of the Poor, Visited, and Sufferers thereby; and most were excited by your Majesty's Gracious Proclamations to do the same, &c.\*.*

I conclude, That if only *most* were excited by the said Proclamations, *all* were not, which must refer to those who had given their Money before the said Proclamations came forth.

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\* These Proclamations bore Date, July 6. in the 17th Year of King Charles II. and September 26. in the 18th Year of the said King's Reign.

Surely the Council were astonishingly modest, to talk at this Rate, when they could be confuted by almost every *Post-Boy* and *Courant*, from the Time that Charity-Schools have been set up.

Can it enter into the Heart of any Man to conceive, That Charity is confin'd to Parishes? Whereas Charity ought to be as diffusive as the Sun; and this Charity was strictly enjoin'd by the *Primitive Christians*, before *Parishes* were known in the World.

Mr. *Marsh* was pleas'd to say, in a Speech made to the Sessions, That in Time these Clergy would grow up into Friars Mendicants.

This is striking Fire from mere Opposites; for I should be more suspicious, that the Justices will be the Abettors of Mendicants, who would take from those Children all the honest Means of getting their Livelihood by the Sweat of their Brows, and reduce them to the Necessity of Begging, for want of lawful Trades and Employments.

Moreover, I desire to know from whence these Friars Mendicants had their Rise? From a false Opinion of the Meritoriousness of abandoning the World before their Work was done therein. They demanded their Discharge too soon; when they had it, they went about through the World more than ever.

I wou'd require whether the Parallel can justly hold: These Children are by them sent into the World as soon as they are capable of being push'd forward therein; they are rescu'd from begging, and are instructed in the Necessity of Labour, and the Duty of industrious Living; they are terrified with the Examples every Sessions, of Persons who come to untimely Ends, by begging in their Infant Days; this is not like the Office of Friars Mendicants.

The



The Reader may call this a Digression, but I was led into the same, by one Observation; That Charity Children are a Reformation upon the Corruption of mistaken Charity, and why to their Original Corruption they shou'd return, is not so evident to me: Or at least, why that Corruption shou'd be charg'd, before the least Spot or Taint can be seen, I may justly demand.

Our pure Reform'd Religion sprung forth from the Corruptions of Popery; but why to Popery it must return, is a Consequence no Man of Sense will pretend to draw.

However, this Insinuation has drawn Mr. *Marsh* and his Brethren into a Snare; for we all know, that Friars Mendicants were a Publick and a Tolerated Order, in *England*, before the Reformation; and publick Begging flourish'd in *England* to as great a Degree, as in any part of the World, when all the Laws against Begging were in as full Force as now; but nevertheless, these publick Beggars were not Indicted by any Statute then in being, and consequently were not understood thereby; nor has any thing materially new been since declared: The Learned Council might therefore have found a sufficient Number of Precedents, which kept an equal and undisturb'd Pace with those Acts.

Popery has been a begging Religion from its Infancy, sometimes with, and sometimes without the Authority of the *Pope*; so that indeed, there is an equal Pretence to alledge the Authority of his *Bulls*, as of the King's *Briefs*, if their Argument carries any conclusive Force with it.

The first Act against Vagrants was passed 1 R. 2.

Now whether that Act occasioned some Abuses to be put upon the Friars Mendicants, I am not certain. However, it is highly probable, that the  
Justices

Justices of the Peace, at that Time might be as troublesome as they have since been, which caus'd a Proclamation to come out from *Richard* in their Favour, after this Manner: ' \* *The King to the*  
 ' *Chancellors of the Universities of Oxford and Cam-*  
 ' *bridge, &c.* Whereas some Persons, by the In-  
 ' stigations of an evil Spirit, and maliciously and  
 ' spitefully, have done great Mischiefs scanda-  
 ' lously against our Beloved in Christ, the Religi-  
 ' ous Brethren of the Order of the † Minorites;  
 ' pretending that they have no good Foundation,  
 ' and make ill use of their Privileges granted by  
 ' Blessed Apostles, and by our Ancestors; moving  
 ' the People to destroy their Houses, and to tear  
 ' their Habits, both openly and privately, and  
 ' to assault their Person, to the Prejudice of our  
 ' Peace; and to making it their Business to rail  
 ' at their Begging, to the great Damage, Scorn and  
 ' Contempt of the said Order, at which we are  
 ' much displeas'd. We therefore, willing that the  
 ' said Brothers, whom we look upon as the conti-  
 ' nual Intercessors for our State and Kingdom,  
 ' should be preserved in all their Rights and Pri-  
 ' vileges, without Diminution; we taking, for our  
 ' selves, and for our Heirs, the said Brothers, their  
 ' Houses, and Privileges, into our Protection.

' Commanding, That no Damage or Violence  
 ' shou'd be offer'd to them by our Subjects, against  
 ' Law and Reason; but that they shou'd be ami-  
 ' cably treated.

' Resolving to punish such Malefactors offend-  
 ' ing against this Order, according to Law, &c.

\* Rymer's *Fœdera*, Vol. 1. 8 Rich: 2. p. 459. An. 1385.

† These Friars Minorites came into England, Anno 1224.

I desire



I desire the Reader to observe, That their Begging was here justified by this Royal Proclamation.

That the Act against Vagrants makes no Exception of this, nor any other Begging Order, therefore they cannot be understood to have any, even, oblique Relation to that Act.

These Friars Minorites came into *England* as a Begging Order, for which they had no Authority, except the *Pope's Bull*; nor can any Letters Patents appear, which ever gave them any Authority: However, they did Beg, and continued so till their final Dissolution; and as I just now observed, were supported in the same, by the King, who testified his Displeasure at those who pretended to molest them.

I have before observ'd that the Cathedral of *St. Paul* had considerable Contributions collected, without Letters Patents: And I flatter my self, I can produce Instances enough from Sir *William Dugdale*, to strike our modern Council dumb, or at least, prevent any more Demands for Precedents.

He tells us, in his History of *St. Paul's Cathedral*, p. 12. 13. ' That the Charge of carrying on  
' so great a Work, was owing to the Bounty of  
' the People, throughout the Realms of *England*  
' and *Ireland*, whose fervent Devotion to the Advancement of God's Service, incited them most  
' willingly to further all Works of this Nature.

' And that this was the only Way by which  
' they herein proceeded to raise Monies, the sundry Letters of the several Bishops of both Nations, to the Clergy under their Charge, for Recommendation of the Business to their particular  
' Congregations, is most evident; a Multitude  
' whereof I have seen and read, by which Letters  
' there are Indulgences extending to a certain Number of Days, for such Penance as they had In-  
' junction

‘ junction to perform, granted to all those who as  
 ‘ being truly sorry for their Sins and confess’d,  
 ‘ should afford their Helps towards this pious  
 ‘ Work.

The first he met with, he says, was by *Hugh Foliot*, Bishop of *Hereford*, to the Clergy, and others of his Diocese, dated on the Day of the Exaltation of the *Holy Cross*, Anno 1228. Another from *Richard Wethershed*, Archbishop of *Canterbury*, Anno 1230. And from *Anselm*, Bishop of *St. Davids*, Anno 1233. Anno 1235, *Henry*, Archbishop of *Colein* being then in *England*, excited all Persons whatsoever to farther this Noble Work, by his Letters bearing Date at the *New Temple* in *London*, on the Day of the Invention of the *Holy Cross*.

I would observe from hence, that according to the modern Sense, this Archbishop was equally Criminal with Mr. *Hendley*; he was a Foreign Bishop, and nevertheless Vagrant as he was pretended to beg in a Diocese not his own.

Not long after, says *Dugdale*, there was Provision of fitting Timber made for the Stalls in the Quire. The Bishops still persisted to issue out their Letters Hortatory in the following Order.

Anno 1236, *St. Eadmund*, Archbishop of *Canterbury*.

Anno 1237, *Walter*, Archbishop of *Tork*; and  
*Josceline*, Bishop of *Bath*.

Anno 1239, *Walter*, Bishop of *Karliol*.

Anno 1240, *Richard*, Bishop of *Rocheſter*.

Anno 1241, *Hugh*, Bishop of *Coventry* and *Litchfield*.

Anno 1243. *William*, Bishop of *Norwich*.

*William*, Bishop of *Norwich*,

Anno 1252. *Richard*, Bishop of *Exeter*.



The last has this remarkable Expression.

*Cum dilecti filii, capitulum Londinensis Ecclesie Sti. Pauli, Ecclesiam ipsum jamdudum inceptam opere Quamplurimum sumptuoso consummare Intendunt, &c. Rogamus, &c. Universos Christianos fideles.*

Whereas, beloved Sons, the Chapter of the London Church of St. Paul, have agreed to bring to Perfection that large and sumptuous Work, &c. We therefore ask, &c. all faithful Christians, &c.

How exactly does this come to that Article of the Indictment? *He ask'd and incited*, how happily was it for the Bishop not to be at *Rocheſter* Affizes?

*Anno 1253, Laurence, Bishop of Rocheſter; and Boniface, Archbishop of Canterbury.*

*Anno 1254, John, Bishop of Landeſſe.*

*Anno 1255, William, Bishop of Salisbury.*

In the ſame Year, *Foul Baſſet*, Bishop of London, to ſtir up the People to liberal Contributions\*, deſires all Perſons in their Teſtaments to bequeath ſomewhat thereto.

*Anno 1259, Foul, Bishop of London.*

*Anno 1260, Richard, Bishop of Lincoln.*

*Anno 1261, Giles, Bishop of Salisbury.*

*Anno 1264, John, Bishop of Wincheſter; and Walter, Bishop of Salisbury.*

*Anno 1265, Robert, Bishop of Durham.*

*Anno 1270, Godfrey, Bishop of Worceſter.*

*Anno 1276, Thomas, Bishop of Hereford.*

*Anno 1281, John, Archbishop of Canterbury.*

*Anno 1283, William, Bishop of Norwich.*

Not only, ſays *Dugdale*, the Contributors to this glorious Work were thus favour'd, but the Sollici-

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\* *Dugdale*, p. 14.

tors for Contributions ; as by an Indulgence from *Richard*, Bishop of *Hereford*, appeareth.

*Anno* 1293, *Richard*, Bishop of *Hereford*.

*Anno* 1303, *John*, Bishop of *Norwich*.

*Anno* 1326, *Roger*, Bishop of *Salisbury*.

*Anno* 1371, *Simon*, a Cardinal of *Rome*.

As for *Ireland*, *Dugdale* recounts no less than eight Bishops who did the same\* ; to whom we may add, *Albinus*, Bishop of *Brechin* in *Scotland*.

Thus the Reader may perceive, that this modern cramp upon Charity had not prevail'd in those Times of Piety.

This same Church was Burnt in the 4th of *Elizabeth* ; but without a Brief or Letters Patents, the following Contributions came from the Clergy in *England*.

	<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>London</i>	297	01	01	<i>Norwich</i>	180	00	00
<i>Canterbury</i>	141	19	08	<i>Ely</i>	56	00	00
<i>Cov. &amp; Litchfield</i>	48	00	00	<i>Hereford</i>	83	13	08
<i>Peterborough</i>	60	00	00	<i>Winchester</i>	40	00	00
<i>Lincoln</i>	191	00	02	<i>Exeter</i>	100	00	00
<i>St. David's</i>	30	00	00	<i>Gloucester</i>	25	00	00
<i>St. Asaph</i>	29	19	00	<i>Worcester</i>	55	00	00
<i>Bangor</i>	23	00	00	<i>Chichester</i>	60	00	00
<i>Oxford</i>	20	00	00	<i>Bristol</i>	20	00	00
				Total	1461	12	11

Thus far we have carried on the charitable Collections for *St. Paul's*, without any Intervention of a Brief or Letters Patents. As for the Collections made in Bishop *Laud's* time, a great Number, as I have observ'd from *Heylin*, were made both in *England* and *Ireland*, before the Letters Patents came out from King *Charles*, *Anno* 7, of his Reign.



Let me also add, That amongst the Constitutions of the Church of St. Paul's, I find this *De Eleemosinario*.

\* The Church of St. Paul's shall have an Almoner, a pious Man, and indulgent to the Necessities of the Poor. His Post is at Stated-Days, to give the Alms to those who want, at the Discretion of the Contributors; and to take care, that the Poor who die near the Church be buried gratis, in the great Churchyard. He shall have eight Boys, of good Genius, and honest Parentage, whom he shall instruct and bring up to Vertue, and take care that they be taught Literature and Singing, to qualify them for the Choir. He shall take nothing for their Admission, all shall be free. He shall gather the Alms, keep a strict Account thereof, by whom they are paid, and shall exactly cast up what is Receiv'd, and what Expended.

Upon the whole, I hope, never to be press'd more with the Dullness of Assize pleading, which has given me so much pains, and so much Consumption of Ink and Paper, upon a Subject as clear as the Sun-beams; if these Men will have Bastard's Eyes, and will out-face the clearest Light, I ought

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\* *Habet etiam Ecclesia Sti. Pauli Eleemosinarium; is homo pius, & pauperum Necessitatibus compatiens sit; ejus Officium est statutis diebus Eleemosinas distribuere egentibus, ubi voluerint illi, qui publicam in Eleemosinam redditus contulerunt; & pauperes, si qui sint qui juxta Ecclesiam moriuntur, in majori cimiterio gratis sepelire. Is octo pueros bonæ Indolis & Honestæ Parentelæ habeat; quos alat & educet in morum Disciplinâ; videat etiam Instruantur in Cantu & Literatura, ut in omnibus apti ad Ministerium dei in choro esse possunt. Caveat ne quicquam eorum accipiat; sed gratam in Ecclesia Eleemosinam admitatur, redditus Eleemosinæ unde, & a quibus solvitur colligat & describat, detque calculum tam Recepti, tam Expensi. See Dugdale's Appendaix, p. 31.*

to be lamented for having the Misfortune to deal with such Men.

They might easily be sensible, that Charity is an Ecclesiastical Act, inforc'd by Canons, and ever the peculiar Care of the Church; in consequence whereof, our Ancestors were pious, without asking leave of the State.

For Proof of this, I shall refer my self to the Primitive Church Abroad and at Home, and from thence we come down to our own Times, and see if a modest Council will not blush at Precedents.

That Collections were made in the first Age, even in the Apostle's times; I have prov'd from St. Paul, *Who made it his constant and heavenly employ to gather Money for the necessitous Saints.*

St. Ignatius makes the Bishop Supervisor, and of all Charities, and Treasurer for the Poor.

The Enmity to Charity is a Branch of the *Manichean* Heresy, as *Labbe* \* observes from *Baronius*; 'They were the first Hereticks whom we read impugn'd Alms.

*Concil. Gangense, Car. 20.* † Blesses all those Works exercis'd towards poor Brethren.

To come nearer to our selves, in *Ireland*, about the midst of the fifth Century, in a Council of Bishops, in which St. *Patrick* was; we find Alms establish'd even by those Canons.

|| *Can. 12.* If a Christian is Excommunicated, his Alms shall not be Receiv'd.

\* *Labbe, Tom. 2. p. 431. not in Concilium.*

† *Et bona opera quæ juxta vires in fratres pauperes exercentur secundum, Ecclesiasticas Traditiones Beatificamus, Conc. Gangrense. Incerto Anno sed in media parte quarti seculi.*

|| *Quicumque Christianus Excommunicatus fuerit, nec ejus Eleemosina recipiatur. Synod Episcoporum Patricii, Iterni, Ap. Spelm. Vol. 1.*



\* *Can. 13.* Alms offer'd by Heathens, shall not be taken in the Church.

† *Can. 25.* If any Gifts are bestow'd by Religious Men, upon those Days in which the High-Priest is in the Church; those pontifical Gifts shall belong according to ancient Custom, to the Bishop, either for his own Use, or to distribute to the Poor at his pleasure.

‖ *Can. 26.* If any Clergyman shall act in opposition to this, and alienate the Money, he shall be Suspended as covetous, *Lucri cupidus*.

We find from these Canons, that such Collections in the Church were very frequent in those early Days.

If we proceed farther to the sixth Century, we have a very remarkable Instance of the Institution of *Charity-Schools*, from an Epistle of St. Gregory to *Candidus* ‡, a Presbyter, He there advises him, going to his Patrimony in *France*, from the ||| Fruits thereof, and other Offerings, to provide Cloathing for the Poor, and to take care that Boys under ten Years of Age may be provided for, and made useful to the Glory of God.

\* *Eleemosinam à Gentibus offerendam in Ecclesiam recipi non licet, Can. 13.*

† *Si quæ à Religiosis hominibus donata fuerint, diebus illis quibus Pontifex in singulis Habitaverit Ecclesiis; Pontificalia dona, sicut mos Antiquus, ordinare ad Episcopam pertinebunt; sive ad usum necessarium, sive egentibus distribuendum pro ut ipse Episcopus moderabit, ib. Can. 25.*

‖ *Si quis vero Clericus contravenerit & dona invadere fuerit deprehensus; ut turpis lucri cupidus, ab Ecclesia sequestretur, Can. 26.*

‡ *Si quid vero de pecuniis reddituum quæ dicuntur oblata recipere potueris, ex his quoque vestimenta pauperum comparare volumus, &c.*

||| *Circo, An. 592. See Greg. Ep. lib. 5. c. 10. Apud Labbe and Spelman circa, An. 592.*

\* If we consult *Bede*, we shall find, That *St. Austin* sent certain Questions to be resolv'd by *St. Gregory*, concerning the Government of the Church. The first was,

In what manner the Bishops shall behave with the Clergy, in regard to the Oblations at the Altar?

† *St. Gregory* return'd an Answer, ' That they ought according to the Apostolick manner, to be divided into four Parts; one for the Bishop to support his Family, and to exercise Hospitality; the second for the Clergy; the third for the Poor; and the fourth for the Repair of Churches.

This we find to be a standing Rule in the Primitive Church, and continued thus down to the seventh Century.

|| The Council of *Clyff*, in the Year 747, *Can.* 26. declares for daily Collections.

We must observe, that this Council was held in the Presence of *Ædilbald*, King of the *Mercians*, who should have made some Motion in behalf of his own Prerogative, in relation to Briefs and Letters Patents, though hitherto there seems an utter Silence in this matter.

Thus have I carried the Reader to the Eighth Century, and have fairly shew'd him, that Alms to that time were Independant of the State.

Perhaps my Adversaries will urge, That the Times hitherto insisted upon were more ignorant

\* *Cir. An.* 601.

† *Mos autem sedis Apostolicæ est, ordinatis Episcopis præcepta tradere, ut in omni stipendio, quod accedit, quatuor debent fieri Portiones; una videlicet Episcopo & Familiæ propter Hospitalitatem atque susceptionem; alia clero; tertia pauperibus; quarta Ecclesiis reparandis. Vid. Bed. lib. 1. c. 27. sive Spelman, cir. An. 601.*

|| *Eleemosina ad hoc quotidie à fidelibus essent Agendæ. Cone. clovishovix ap Spelman, Vol. 1. Can. 26.*

*Bonum est Eleemosinas quotidie dare.*

than



than our own, and that I ought to come nearer to a Parallel with the Acts since made against Vagabonds, and to carry the Dispute to the present Age.

That neither those nor any other Laws concerning the Poor or Vagrants, affected Ecclesiastical Oblations and Charities, is my next Business to evince.

For even Eight Years after the first Act of this Nature was pass'd in *Richard II's* Reign, which as I remember, is the first penal Act in relation to Vagrants; a Council was held at *London*, in which it was decreed, That Curates should not take away the Oblations, Emoluments, and Proprieties of the Vicars from the Churches, into which at Divine Service they were admitted without their Consents \*; from which I observe, that Oblations continu'd in the Church, notwithstanding the Act against Vagrants in those Days.

In the 12th of *Richard II.* three Years before this Council, another Act was pass'd for that purpose; yet it neither did extinguish, nor do I believe they were ever design'd to extinguish Oblations in the Churches.

Thus have I prov'd also, since our *Reformation*, the Clergy are Authoris'd by the Canons and Rubricks, to suffer Oblations for the Poor in the Churches.

I shall only make one Observation, and then conclude this Head.

There has been no material Alteration in the Laws concerning Vagrants, since the *Reformation*, from those before.

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\* *Qui Christi fidelium Oblationes, cetera quoque Emolumenta & Commoda, ad Rectores, seu vicarios Ecclesiarum, in quibus ad Divinorum celebrationem, de ipsorum Licentia sunt admissi spectantia; absque eorundem conniventia auferre, &c. Concil. Londinense. Ap Labbe, An. Christi 1391. Tom. 11. p. 2. p. 1277.*

7 *Rich. 2. c. 5.* says, 'Justices shall examine Vagabonds, bind them to their good Behaviour, or commit them to Prison.

11 *Hen. 7. c. 2.* 'They shall be set in the Stocks three Days and three Nights; and have no other Sustenance but Bread and Water, and then shall be put out of the Town.

1 *Edw. 6. c. 3.* If any Person shall bring to two Justices of the Peace, any runnagate Servant, or any other, which liveth idle and loiteringly by the space of three Days; the Justices shall cause him to be mark'd with an hot Iron in the Breast, with the mark of *U*, and adjudge him to be a Slave to the same Person who brought or presented him, to have him, his Executors or Assigns for two Years after, who shall take the said Slave, and give him Bread, Water, or small Drink, and refuse Meat, and cause him to Work, by Beating, Chaining, or otherwise, &c.

3 & 4 *Edw. 6. c. 16.* The making them Slaves was Repeal'd. And 22 *Hen. 8. c. 12.* is Reviv'd, That doth appoint how impotent and aged Persons shall be reliev'd, and Vagabonds punish'd.

14 *Eliz. c. 5.* 'A Vagabond above the Age of fourteen Years shall be whipp'd, and burn'd thro' the gristle of the right Ear with an hot Iron, unless some credible Person shall take him into Service for a Year. After the Age of Eighteen, if he Relapses into his former Roguish Life, he shall suffer Death, as a Felon.

Such were the standing Laws against Vagabonds, 'till the Reformation was compleated.

I would ask, whether our Forefathers were not the most proper Judges of their own Laws? Or whether we can pretend to understand them better since?

If not; then it necessarily follows, That their continual Practice following their Laws, or going  
I with



with them, is the best Comment thereof. Now for two Hundred Years successively since *Richard*, the Mendicants continu'd either more or less begging in this Kingdom by the *Pope's* Authority, without Letters Patents from the King, and no Power pretended to restrain their Number, except the *Pope* in a Council at *Lyons* \*, by whom they were limited to the *Pradicates*, *Minorites*, and *Carmelites*.

That the *Pope* confirm'd the *Minorites* in their begging Institution. See *Labbe Con. Later. Tom. 11. p. 238. A. 1215.*

That the State did not disapprove these Things, is evident from *Richard II's* Edict, to protect those Mendicants.

If we therefore exclude our Adversaries from the times of *Popery*, I desire them to set up their *New Lights*, that we may not stumble in the Dark. Let them extinguish the Candles I have Lighted to the Sun, with their more flagrant Flambeaux if they can.

I am sure Oblations never yet ceas'd in our Church; they have proceeded in an uninterrupted Line from the Apostle's Days, to our own.

I hope, therefore, the Learned Council will be ashamed of that part of the Indictment charg'd upon Mr. *Hendley*, as Criminal, that he *incited* and *ask'd* the People's Charity; whereas *St. Paul* did the same before him; and I am sure it was never yet condemn'd by any Act in the World.

From whom did Mr. *Hendley* take his License? Not from the Justices. Nor was this License ever so limited, as to prevent his insisting upon Charity?

† We have in *Stow*, a very particular Account of a *Sermon* upon *Mercy* and *Charity*, preach'd by

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\* Can. 23. An. Christi 1244. *Labbe.*

† See *Stow*, p. 342.

that Blessed Martyr Bishop *Ridley* ; for which, instead of a Whipping, or an Indictment, he had Royal Thanks ; and which procur'd the three best Hospitals the City of *London* now enjoys, viz. *Christ's-Hospital*, *St. Thomas's-Hospital* in *Southwark*, and *Bridewel*.

I have urg'd thus far, to confront these Pleaders against Charity-Children, and, if possible, to make them blush ; and if that will not do, I shall set down their Names, that Posterity may, at least, blush for them.

The Council for the  
Plaintiffs, were, { Serjeant *Darnel*.  
                                  { Mr. *Baynes*.  
                                  { Mr. *Marsh*.

For the Defendants, { Serjeant *Cummings*.  
                                  { Mr. *Constantine Phips*.  
                                  { Mr. *Blondel*.

Judge, Sir *Littleton Powis*.

Mr. *Marsh* alledg'd, with a Warmth peculiar to himself, That in Time the Charity-Schools might raise such Sums of Money, as to enable them to make Head against the Government.

Before they were represented as a *Bartholomew-Farce* ; but now they are become more formidable ; their Drums beat to Arms, and their Trumpets sound a most dreadful Allarm. The Protestant Religion had its Quarter beaten up at *Chiffelburst*, and the Terror has struck even the head Quarters in Town.

The Sum of three Pounds was rais'd even in that Parish ; I suppose 10000 Parishes in *England*, from each of which, if the said Sum was rais'd, it wou'd be enough to bear the Chevalier's Charges into *Italy*, and help him to consummate his Marriage with the Princess *Sobieski*, upon whom he might



get new Pretenders ; to the great Disquiet of the Protestant Interest in future Ages.

So far Mr. *Marsh* shew'd a due and seasonable Regard for the Safety of the Protestant Religion. I mean that Religion newly sprung up, within our Memory ; a Religion not arm'd with the Terrors of a Hell and Future State, but naked, simple, and inoffensive ; it neither rudely breaks in upon the Adulterer, in the Embraces of an Whore ; nor stings the Sacrilegious Invader of Church-Lands with Remorse ; it requires no Creeds to confine the Reason ; nor Knowledge, above our own.

In short, we cannot be too careful to preserve and transmit to Posterity, a Religion void of all Principle, of all Faith, of all Charity ; a Religion that will not bear the Mention of Heaven, nor croud the Dreams of its Votaries, with the black Terrors of Hell ; a Religion of which every Man may be a Priest, a Bishop, or a Pope ; a Religion that frees us from all Foreign Tribunals, especially that of the Day of Judgment ; from Hopes in another World, and Fears in this.

I can excuse Mr. *Marsh*'s Care for this tender and newly vamp'd Religion : The least Breath of Air may spoil its Beauty, and tarnish the recent Gloss upon its Coat : But especially the Breath of Charity, is as fatal as the Blast of Pestilential Air, upon the Beauty of Youth and blooming Vigour.

If Mr. *Marsh*'s Intent was to be in Earnest, and persuade the World, That the voluntary Contributions for Charity-Schools wou'd really put the Government in Danger ; I must tell him, he either wanted Sense ; or suppos'd the Jury to be Fools ; for never was so much Nonsense spoke to gratify a wise Audience.

The Prince in Possession is at present in Alliance with Powers who can bring 600000 Men into the Field ;

Field ; he has 100 Ships of the Line of Battle, most in Commission ; he has a Parliament, and a standing Army at Home : And yet Mr. *Marsh* would alarm a dozen Country Esquires, with the Fears of fifty Boys and Girls raising the pitiful Contribution of Three Pounds at *Chiffelhurst* in the County of *Kent*.

I hope the Reader will pardon my puddling in the Dirt and Mire ; I must lead him through all their ways, that he may know them again.

My Learned Gentleman proceeded with Law ; But what was this Law ? A Collection of Acts of Parliament against Vagrants, without any regard to the Repeal'd and Unrepeal'd.

I observe before, That all these Acts suppose the Persons to be Villains : But, I hope, these Persons are safe from that Imputation, while they are shelter'd by the Primitive Christians ; by even the Apostles ; and by an uninterrupted Series of Canons to this Day.

If they are not affected with the Example of these Men ; at least what Sir *Constantine Phips* urg'd, should put a stop to their Choler ; for if as he asserted, Archbishops and Bishops preach'd for such Collections, if as Mr. Archdeacon *Spratt* depos'd upon Oath, the *House of Lords* were present at a Sermon in *Westminster*, when a Collection was made for poor Children not thereunto belonging, and that he had seen the late Lord Chancellor *Cowper*, and the late Lord Keeper *Wright*, encourage the said Collections ; and if the said Encouragers are Rogues, in what an hopeful State is the highest Legislative Court of our Kingdom ; O what a dreadful Blast was this Verdict at *Rocheſter* ! How Inclement to spare neither Apostles, Archbishops, Bishops, nor Lords. They all lie under the same vile and undistinguish'd Character of being Knaves, of deserving to have their Ears bor'd through, to be



be made Slaves, and Chain'd down to work, and feed on Bread and Water.

Mr. Archdeacon *Spratt* offer'd the *Three Rubricks* in their Vindication, viz. The last after the *Nicene Creed*; the first after the *Offertory*; and the last after the *Communion Service*. Sir *Constantine Phips* argu'd from the same Topicks, but the Judge over-rul'd that Plea, by urging, that the Collection was restrain'd to fix'd Times.

I should have sincerely Congratulated his Lordship, if he had inform'd the Court where and when those Limitations were made; because, I am sure, they are neither in the Canons, in the Rubrick, nor in any Act of Parliament, and where else they should be I cannot Divine.

However, his Lordship's Memory may fail, he is advanc'd in Years, and has had those Years extremely broken by the Fatigue of his Office.

I desire to put this Judge in mind, That Injunctions were put forth by Queen *Elizabeth*, 1559. The 25th Injunction is a compleat Answer to him, and to the whole Court, viz. ' Also ' they shall provide, and have within three Months ' after this Visitation, a strong Chest, with a Hole ' in the upper Part thereof, (to be provided at the ' Cost and Charge of the Parish,) having three ' Keys, whereof one shall remain with the Parson, ' Vicar, or Curate, and the other Two in the Custody of the Churchwardens, or any other Two ' honest Men, to be appointed by the Parish from ' Year to Year; which Chest you shall set and ' fasten in a most convenient place, to the Intent ' the Parishioners should put into it their Oblations and Alms for their poor Neighbours. And ' the Parson, Vicar, and Curate, shall diligently ' from time to time, and especially when Men ' make their Testaments, call upon, exhort and  
move

' move their Neighbours to confer and give as they  
 ' may well spare to the said Chest ; declaring un-  
 ' to them, whereas, heretofore, they have been di-  
 ' ligent to bestow much Substance, otherwise than  
 ' God commanded upon Pardons, Pilgrimages,  
 ' Trentals, decking of Images, offering of Candles,  
 ' giving to Fryars, and upon other like blind  
 ' Devotions ; they ought at this time to be much  
 ' more ready to help the Poor and Needy, know-  
 ' ing, that to relieve the Poor, is a true worship-  
 ' ping of God, requir'd earnestly upon Pain of  
 ' everlasting Damnation. And that also, *Whatso-*  
 ' *ever is given for their Comfort, is given to Christ*  
 ' *himself ; and is so accepted of him, that he will mer-*  
 ' *cifully Reward the same with everlasting Life.* The  
 ' which Alms and Devotions of the People, the  
 ' Keepers of the Keys, shall at all times conveni-  
 ' ent, take out of the Chest, and distribute the  
 ' same in the presence of the whole Parish, or six  
 ' of them, to be truly and faithfully deliver'd to  
 ' their most needy Neighbours. And if they be  
 ' provided for, then to the Reparation of High-  
 ' ways next adjoining, OR TO THE POOR  
 ' PEOPLE OF SUCH PARISHES NEXT AD-  
 ' JOINING, or to the poor People of such Pa-  
 ' rishes near, as shall be thought best to the said  
 ' Keepers of the Keys.

This Injunction of Queen *Elizabeth*, confronts  
 all the Proceedings in Relation to our Dispute.  
 For,

1<sup>st</sup>, Here is a Declaration, that this Chest shall  
 receive the Alms of the Parish.

2<sup>dly</sup>, That the Minister shall exhort the People  
 to bestow their Alms.

3<sup>dly</sup>, The Time and Opportunity is left to the  
 Discretion of the Minister or Curate.

4<sup>thly</sup>, Others



4thly, Others besides the Churchwardens may collect the same; which confronts one Part of the Indictment, in that the Trustees were not Churchwardens.

5thly, The Charities collected \*, are not confin'd to the Parish in which they are given.

I will grant Sir *Littleton* to be a very Learned Judge in the Common Law. However, the Common Law, and Canon Law, tho' both equally upon the Civil Establishment, have their different Scopes and Views; nor was it ever in the Intention of our Ancestors, to subject the Clergy for Canonical Offences to the common Lawyers, who, perhaps, never read the Canons in their Lives.

As the Council against the Defendants, first insisted upon Precedents; and as Mr. Justice *Powis* was pleas'd to make the Controversy turn upon the Alms not being collected at the fix'd and regular time, I hope I may insist upon one Precedent before, viz. of the Reverend Mr. *Hawes*, a Clergyman, being Tried before a secular Tribunal for Offences against the Canons. I may demand what Power a Bench of Justices had to determine a new Case from their own Heads, that leaving out a precarious Part of the *Common-Prayer*, made the Congregation Conventiclers; or that not collecting Money exactly according to the Rubrick, made the Congregation Rioters. This is all perfectly new; unknown to our Constitution; and I may say, it is hard to bring the Clergy to new Courts and Judicatures, where they never appear'd before in such a manner.

Precedents therefore may justly be demanded on their side; though, indeed, a worthy Gentleman, Captain *Sbackleton* by Name, upon the Disturbance

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\* *Non existentes Guardiani Ecclesie.*

in the Church, was pleas'd to tell Mr. *Farrington*, he believ'd there was no Precedent of this Nature since *Oliver's Days*.

What made Mr. *Justice* look pale upon this severe Reprimand, I leave to himself, who ought to be best acquainted with his own Passions and Frailties; however, I have observ'd, the same Cause will have a different Effect upon different Men, it will make some look Pale, and others Blush.

To return to our Tryal. The Evidences were call'd on both Sides, who prov'd the same Things mention'd in the Relation above.

To prove, that the Defendants had the Bishop's and Incumbent's consent.

*John Reeves,*      *Rich. Neeves,*  
*Will. Moor,*      *Tho. Shackleton.*

To prove, the Justices the Authors of the Disturbance.

*William Tryon.*  
*George Jefferies,*

To prove, the Archbishop of *Canterbury* preach'd at *St. Dionis Back-Church*, for the Charity-Children of *Shadwell*.

The Rev'd Mr. *Hume,*      *Capt. Tho. Shackleton,*  
Mr. *Tryon,*      *Richard Payne.*

To prove, the Archbishop of *York* did the same.

*Capt. Tho. Shackleton.*

The Reader by this time will expect to hear, that the poor Defendants, who indeed ought to have been Plaintiffs, were Acquitted, for he cannot but have a true Notion of the Cause before us.



The Learned Judge, with the Novelty of the Thing, and the Astonishment of their pretending to the Protection of the Government, was perfectly lost in the Confusion; he was not willing to gratifie the *Jacobites* with a Tryal, and at the same time was sensible that Law was very thin spread over this Prosecution.

The poor Gentleman seem'd to be very much afraid, the Three Pounds would be remitted to *Spain*, to encourage an Invasion in this Kingdom, or to Support the *Pretender* Abroad.

He was not a little Suspicious, that Mr. *Hendley* had Cardinal *Alberoni's* leave, as well as the Bishop of *Rocheſter's*, to make this Collection, to carry on worſe Deſigns, under the ſpecious Colour of advancing Charity.

He ſeem'd confirm'd in this Suspicion more, becauſe the manner of Collecting had ſome Reſemblance with that of the Cardinal's in *Spain*; for he laid a Tax upon the People, which they were forc'd to pay, and gave it the ſpecious Name of a free Gift, *alias* Charity.

If this Stratagem was to ſpread in *England*, by the ſubtle Artifices of this politick Cardinal; the Nation is in Danger of paying double Taxes.

Upon the whole, the Judge wiſh'd, That he had his Eleven Brethren to conſult with upon the Bench, but as that was not poſſible, in the mean time he directed the Jury to bring in their Verdict for the Plaintiffs, as being a ſure way to ſave one Party, and to leave the other to remedy themſelves by a Writ of Error againſt the Jury.

This was a great Comfort to the Defendants, to have a freſh Suit, and freſh Charge to commence, and a freſh Proſpect of coming off no better than at the firſt; a pure Cordial to reſreſh their Spirits, after ſuch an handſom Baiting.

I do not blame the Judge's Conduct in this Case, I have Learn'd from *Exodus* 22. 28. *Thou shalt not Revile the Judges, nor Curse the Ruler of thy People.* My Intention, therefore, is no more than to pity him, and vindicate him, as far as lies in my Power. I am far from Insinuating in this Case, that he maliciously, or to serve a Party, trampled on our Laws; for no Judge who is Guilty of betraying the Law, deserves a better Fate, than to have his Skin stuff'd with Straw, and hung up in *Westminster-Hall*, for a Terror to Posterity.

I may without Offence say, it was really a pity that the Judge did not perceive the Flaws of the Indictment, and give Directions to have it quash'd, and that he had not the Verdict of his Eleven Brethren, all this was most certainly unhappy, tho' indeed he made some amends by the Inconsiderableness of the Fine.

However, The Jury had a more clear Notion of the Case than the Judge, they had no Scruples concerning the Hardship under which the Defendants lay, by the charge of the Prosecution: But no sooner had the Judge summ'd up the Evidence, than the Jury went out, and return'd with a damnatory Verdict, upon which the Judge presently Sentenc'd the Defendants a Fine of Six Shillings and Eight Pence each, a very moderate Fine considering the Offence! And as the Verdict was shot forth like a Fool's Bolt, his Lordship could do no less than pass upon them that Sentence, which drew upon him the necessary Consequence of blasting the Hopes of all the Poor for ever.

The Council for the Justices urg'd for a larger Fine, for that the Defendants had become Plaintiffs in the *Bishop's Court*; and therefore pray'd, that such a Fine might be laid upon Mr. *Hendley*, &c. as might either satisfy the Charges they should be at in the *Bishop's Court*, or make the Opponents



desist: But the Judge refus'd that Request, and told them, that should serve for the present, but if they came before him again, they should have their Deserts. And thus ended this famous Tryal.

The Bishop of *Rochester*, it is to be hop'd, will not suffer this Cause to drop, without one more struggle for the dying Principles of the Clergy; he has for his Part espous'd the Quarrel in his own Court \*, where indeed the Treachery of some of his Servants has rendred him Unfortunate. And since a Prohibition has been mov'd, which will

\* *E Registro Domini Episcopi Rossensis*, Extract.

To the Reverend Mr. *Spratt*, Archdeacon of *Rochester*, at his Visitation held at *Dartford*, October 7. 1718, or in his Absence, to his Official.

**WHEREAS** Sir Edward Bettison, and Thomas Farrington, Esq; both of the Parish of Chiffelhurst in the County of Kent, did on Sunday the 24th of August, 1718. disturb and interrupt Divine Service in the Church of the said Parish. We the Minister and Church-Wardens of the said Parish, do hereby present the said Sir Edward Bettison and Thomas Farrington, Esq; for the said Offence, to be by you punish'd according to such Ecclesiastical Laws, as are prescrib'd in that behalf.

Witness our Hands, Oct. 5. 1718.

George Wilson, Rector of Chiffelhurst.

Thomas Dickerson, Church-Warden.

Exam.

Tho. Rous, } Reg. Deputat  
Hen. Pooler, }

will be argu'd the first Day of the next Term, though I deliver it, as my Opinion, that there is not the least room to grant one; however, a few more Precedents, in a short time, will exclude the Clergy from all their Priveledges, and reduce both Canon and Civil Law to the Mercy of *Westminster-Hall*; which bodes well to the Church in general, and to the Clergy of our own Country in particular.

Thus I have finish'd an Account of this monstrous Story: The Reader may perhaps expect the Application, and require what benefit the present or future Ages may expect from the same.

They may learn from what has been said, to know whither they are going; and if God has bless'd them with Prudence and Understanding, they may perhaps avoid the impending Mischief over them. This is all the Service, I propose, either to the present Age, or to Posterity.

I desire them to observe, That the Church of *England*, though it has carry'd different Faces before and since the *Reformation*; yet it has ever been the same, in one Respect, for 1200 Years, a Body Corporate, invested with peculiar Priveledges, and Rights essentially interwoven with the State.

These Priveledges were ever dear both to the Clergy and Laity alike; our Ancestors never appear'd in Arms against their lawful Monarchs, unless upon the double Pretence of securing the Rights of the Church, and of the People; for these they appear'd in *Runny Mead*, with their Swords in one Hand, and Pen and Ink in the other, to make the Prince subscribe to the Preservation of the Church, and the Freedom of the State.

This Body Corporate was broke in the *Grand Rebellion*, and with that, all the Glory of our *English* Nation likewise fell to the Ground: Our Monarchy, our Liberties, and all that could be dear to us.

When



When that Monarchy and our antient Liberties arose at the *Restoration* of King *Charles*, the Church sprung from the same Grave, and both flourish'd with mutual Sympathy together.

When the Prince of *Orange* took upon himself the Government of these Kingdoms, he promis'd to preserve the *Church of England*; this was part of his Contract, and an essential Condition of his wearing the Crown.

The Settlement in the present House of *Hanover*, is upon the same Terms; and the Prince in Possession, has solemnly Sworn to it upon the *Holy Evangelists*.

I do not pretend to say, that Prince has broke into the same; he is not answerable always for what his inferior Courts have done. With them only I am concern'd at present to point out their Incroachments. And when this momentous Affair comes under the Cognizance of the *House of Lords*, it is to be hop'd, that Court will remember what I have said, and what I have farther to offer in the *Conclusion*.

By the Freedom of the Church, was ever understood, the Liberty of our own Laws, which are the Body of Canons taken from the antient Church, and those since made by Ecclesiastical Synods in our own Kingdom.

But this Freedom has been lately struck at in the two most sensible Points; and if some Persons are suffer'd, she may be struck at in two more, and then all her Liberties are gone for ever.

As to the first, I mean the Tryal of Mr. *Hawes* before a Bench of Justices, (for a suppos'd Defect,) in Reading the *Common-Prayer* in his own House.

From hence that Court took Occasion to turn a Congregation of the *Church of England*, into a *Presbyterian* Conventicle; nay, and to determine  
without

without the least Encouragement from our Laws, that leaving out part of the *Common-Prayer*, made an Episcopally ordain'd Minister, who had subscrib'd to the Articles and Canons of the *Church of England*, a Conventicler.

The second was, this famous Tryal before us, where for an imaginary Canonical Defect in the performing the Service of the Church, all the Service immediately became Riotous, and the Clergy liable to be punish'd for the same at Common Law.

From these two Precedents, which the Common Law calls adjudg'd Cases, the Clergy are snatch'd from under the Wings of their Ordinary, and turn'd over to secular Courts. The Bishops are depriv'd of their Jurisdiction, the *Canons* and *Rubricks* are only Subjects of \* Laughter, and a secular Judge can over-rule either, if they do not agree with the Laws of his own Court.

*Vix Credite Posteris.*

I have seen Antient Buildings venerable in their Ruins, but to see an Antient and Apostolical Church fall ignominiously and contemptibly into nothing, by the Supineness of its Pastors, is a lamentable Prospect.

Will future Generations believe, that History 800 Years before their time has had any Truth, that *Magna Charta* was any thing more than the Fiction of Sick-brain'd Writers; if it should be their Fate to see their Clergy Tried in common with Thieves and Felons; if they shall see their Pastors expos'd to the Power of Justices of the Peace; and the *Canons* and *Rubricks* explain'd at the Sessions.

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\* When Mr. Hendley, in open Court, alledg'd the *Canons* and *Rubricks*, the whole Court fell into a Laughter.



O my God! Could our Antient Prelates and Clergy, who made those Canons, arise from their Graves, and see them slur'd by the ignorant Glosses of Pretenders; Indignation would even drive them back to their silent Retreats again.

Our Clergy are Co-eval with our *British* Monarchy; they existed, when Justices of the Peace and common Lawyers had no Being; they were the grand Council of the Nation before ever Parliaments. And shall their Privileges be blasted by an Assize Jury? Shall they be hal'd from their Churches, from the Execution of their Office, by Justices of the Peace?

If so; how are they fallen from their Antient Grandeur? What Influence can a Body of Men, render'd thus Contemprible, have over the Minds and Consciences of their People?

Justices of the Peace have their Province allotted by the Laws, to restrain Rogues and Vagrants; but to have a coercive Power over the Clergy, is Unprecedented, except in the Times of the *Grand Rebellion*.

I hope from the Courage of the Bishop of *Rochester*, this important Affair will not be lost, because it is an Affair on which all depends; for who can think it just, that \* Excommunicated Persons and Dissenters should sit as Judges upon the Canons, the Rubrick, and the Common Prayer. More happy Circumstances our Enemies cannot wish, nor our Friends dread.

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\* One propos'd for the Jury, was Excommunicated, and with much Difficulty laid aside.

F I N I S

